ADMINISTRATIVE DIRECTIVE

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DRUG AND ALCOHOL USE: IMPAIRED EMPLOYEES PHYSICAL EVALUATIONS; APPLICANT TESTING	2.02-22	1 of 9
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I. PURPOSE

To state City policy regarding the use of alcohol, controlled substances (drugs), and other intoxicants by City employees.

II. POLICY

It is the City's policy to maintain a drug-free workplace. The City requires that applicants for firefighter positions, all positions in the Police Department, positions requiring a Commercial Driver's License, and certain positions listed in Section III.A of this directive shall be offered employment conditional on testing for controlled substances and meeting departmental drug-free workplace standards. Procedures for testing employees shall be in accordance with applicable law.

This Directive sets forth the minimum standards to which all City employees shall adhere. The Police and Fire Departments may, with City Attorney approval and consistent with applicable law, adopt additional internal standards, which shall apply only to those employees assigned within those departments.

III. DEFINITIONS

A. CDL employee – An employee required by the City to have and maintain a Commercial Driver's License (CDL), including all drivers required to have a CDL by 49 CFR § 382.107, as well as the following positions: 6005 Equipment Operations Specialist, 5153 Senior Environmental Services Worker, 5010 Environmental Services Supervisor, 5772 Welder, 5302 Fleet Services Technician, 5303 Senior Fleet Services Technician, 5304 Lead Fleet Services Technician, 5332 Auto Body Technician, and 5321 Heavy Equipment Mechanic in the General Services Department.

B. Controlled substance - a drug as defined by Arizona Revised Statutes or by schedules I through V of Section 202 of the Federal Controlled Substances Act, 21 U.S.C. Section 812, including, but not limited to, amphetamines, barbiturates, cocaine, methaqualone, opiates, phencyclidine (PCP) and THC (marijuana).

C. Reasonable suspicion - A belief that can be described and is based on specific objective facts that an employee is under the influence of controlled substances and/or alcohol. "Reasonable suspicion" may include, but is not limited to:

1. A pattern of abnormal or erratic behavior;
2. Information provided by a reliable and credible source;
3. Direct observation of drug or alcohol use or evidence of such use;
4. Presence of the physical symptoms of controlled substance or alcohol use, such as glassy or bloodshot eyes, the odor of alcohol, slurred speech, poor coordination.

D. Safety-sensitive functions - On-duty functions while waiting to be dispatched; inspecting, servicing, or conditioning any commercial motor vehicle; driving a commercial motor vehicle; time, other than driving time, spent on or in a commercial motor vehicle; time loading or unloading, supervising or assisting in loading; performing driver requirements associated with an accident and time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

E. Substance Abuse Professional - The City's Employee Assistance Program professional who has knowledge of, and clinical experience in, the diagnosis and treatment of alcohol and controlled substances-related disorders.

IV. POLICY REGARDING CONTROLLED SUBSTANCES

A. City employees shall not:

1. Report to work having used any controlled substance;

2. Whether on or off duty, use, manufacture, possess, sell, or provide to another any controlled substance, or improperly use any drug.

B. This policy does not apply to the authorized possession of controlled substances by employees in the course of their duties (e.g., employees involved in police operations or para-medicine).

C. Possession of medically prescribed controlled substances or medications, which have been legally prescribed to the employee by a person licensed to do so, and the use of such substances consistent with the prescription, is not a violation of this policy.

D. A City employee who is taking any medication, whether or not prescribed, which may interfere with the safe and effective performance of duties or operation of City equipment, is required to advise Risk Management of that fact before beginning work.

1. In the event that there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medication, clearance from the City Physician shall be required; the employee shall not be allowed to drive or perform other safety-sensitive functions until clearance from the City Physician is obtained.

2. Failure to advise Risk Management of the use of any medication that may interfere with the safe and effective performance of duties or operation of City equipment may result in discipline.

3. Employees who are concerned about their alcohol and/or drug use are strongly encouraged to seek voluntary assistance. The City's Employee Assistance

Program (EAP) is available as a resource for all employees. Current information regarding the EAP may be obtained from the City Intranet.

V. POLICY REGARDING ALCOHOL OR OTHER INTOXICANTS

A. City employees shall not:

1. Report to work with an alcohol concentration of .04 percent or higher or under the influence of other intoxicants;

2. While on duty, possess or use alcohol, or sell or provide alcohol or other intoxicants to another;

3. While in uniform, on or off duty, buy or use alcohol or other intoxicants.

4. While on duty or on call, have an alcohol concentration of .04 percent or higher or be under the influence of other intoxicants.

B. This directive does not apply to possession, use, or provision of alcohol or other intoxicants by employees in the context of authorized work assignments, such as undercover police enforcement activities and intoxilizer demonstrations. In all such cases, it is the individual employee's responsibility to ensure that job performance is not adversely affected by such possession, use, or provision of alcohol or other intoxicants.

C. CDL employees with alcohol concentrations of .02 and below .04 percent will be removed from driving duties and all safety-sensitive functions for a period of not less than 24 hours following the administration of the test. CDL employees with alcohol, concentration of .04 or higher are subject to disciplinary action in accordance with Section IX of this directive.

VI. GENERAL POLICIES AND PROCEDURES

A. Department directors and supervisors are responsible for consistent enforcement of the policies set forth in this directive. Any supervisor who knowingly permits a violation of this directive shall be subject to disciplinary action.

B. In the event that a **supervisor** has determined that there is reasonable suspicion to believe that an employee is under the influence of alcohol and/or controlled substances, the employee shall be required to submit to drug and/or alcohol testing. See Section VIII.C of this directive.

C. Refusal to submit to testing pursuant to this directive shall be treated the same as a positive test and is grounds for termination.

D. Criminal Arrests and Convictions.

1. Any employee who is arrested for a violation of a criminal drug statute shall notify his/her supervisor of the arrest within one business day of the arrest, and advise the supervisor of any changes in the status of the situation thereafter.

2. Any employee who is convicted of a violation of a criminal drug statute shall notify his/her supervisor or departmental administrative personnel of the conviction within five (5) calendar days of the conviction.

3. When notified of a conviction, the supervisor or departmental personnel notified shall immediately forward the information in a confidential manner to the Assistant Director of Human Resources.

4. If the City department in which the convicted employee is assigned receives federal grant funding, the conviction shall be reported to the granting agency within ten days, and disciplinary action shall occur within thirty days, of receiving the notice of conviction.

E. All testing of blood, breath and/or urine for controlled substances and/or alcohol shall be accomplished through the City Physician and/or such other medical facilities as may be selected by the City.

F. Controlled substance testing will follow split sample procedures. Any initial positive screening shall be confirmed by a gas chromatography/mass spectrometry test, using a portion of the same test sample initially provided by the employee. In addition, an employee whose urine sample has tested positive has the option (within 72 hours of being notified by the City Physician) of having the other portion of the split sample tested at the same or another federally-certified laboratory at the employee's expense.

G. The Human Resources Department is responsible for developing and maintaining a training program for supervisory personnel to assist them in recognizing conduct and other factors that give rise to a reasonable suspicion that an employee is under the influence of alcohol and/or controlled substances. This program shall comport with all applicable laws and regulations, including CDL requirements, and shall be contained within the Human Resources Department departmental procedures.

H. All City employees shall receive a summary of this Administrative Directive.

I. Supervisors of CDL employees must complete training in the recognition of alcohol and substance abuse.

J. CDL employees must complete training regarding the parameters of the expanded testing programs as defined in Section VII of this directive.

VII. TESTING FOR CDL EMPLOYEES

A. CDL employees, as defined in Section III.A of this directive, are subject to expanded drug testing prescribed by this directive and state and federal law. Department directors are required to ensure that an accurate listing of all CDL employees is provided to both Risk Management and Human Resources and is continually updated by adding or removing employees as assignments change.

B. Required testing for CDL employees:

1. Pre-appointment testing - Prior to an appointment or promotion to a position as a CDL employee or prior to the first time a driver performs safety-sensitive functions for the City, the driver must submit to testing for controlled substances. If the driver fails the test, that driver will not be hired or promoted and, if already employed, will be disciplined in accordance with Section IX of this directive.

2. Random Testing - Alcohol and controlled substance testing will be conducted on a random basis spread throughout the calendar year. Only drivers who are performing safety-sensitive functions, or immediately prior to or after performing safety-sensitive functions, will be tested as established by federal regulation. Employees who are on temporary restricted duty continue to be subject to random testing.

3. Reasonable Suspicion Testing.

   a) Alcohol and/or controlled substance testing will be required when the City has reasonable suspicion, as set forth in 49 CFR § 382.307, to believe the driver has violated the alcohol and/or controlled substances prohibitions. The required observations shall only be made by those who have attended the training program described in Section VI.G of this directive.

   b) Return to work following a controlled substance test shall comply with the terms of 49 CFR § 40.21. If employment is not terminated following a positive alcohol test, return to work following the positive alcohol test is governed by the terms of paragraph 5, below. An employee who receives a negative alcohol test result shall return to work immediately.

4. Post Accident Testing – The supervisor will require each surviving driver to be tested for alcohol and controlled substances following an incident involving a commercial motor vehicle when either:

   a) the accident involves a fatality; or

b) the driver receives a citation for a moving traffic violation arising from the accident, AND either (1) the incident involves an injury treated away from the scene, or (2) a vehicle is required to be towed from the scene.

A driver who is subject to post-accident testing shall remain available, or the City may consider the driver to have refused to submit to testing. The driver subject to post-accident testing shall refrain from consuming alcohol for eight hours following the accident, or until s/he submits to an alcohol test, whichever comes first. For CDL drivers only, the City complies with CDL regulations containing additional requirements related to the time for certain testing and the related records to be maintained.

5. Return to Duty Testing - Any driver whose employment was not terminated, after engaging in prohibited conduct regarding alcohol misuse, shall undergo a return to duty alcohol test indicating an alcohol concentration of less than .02 percent prior to returning to duty. When a return to duty test is required, the driver must also be evaluated by and participate in treatment prescribed by the Substance Abuse Professional. The driver must also be cleared by the City Physician.

6. Follow-Up Testing - shall be directed by the Substance Abuse Professional as required by 49 CFR § 40, Subpart O.

C. Controlled substance testing will be conducted as set forth in Section VI.F of this directive.

D. Refusal to submit to testing pursuant to this directive will be treated the same as a positive test result and is grounds for termination.

VIII. DRUG TESTING OF NON-CDL EMPLOYEES

A. Pre-Appointment Testing - Applicants for the position of firefighter, Police Department positions, and all positions delineated in Section III.A of this directive, shall be tested for controlled substances as part of the post-offer pre-employment physical. Applicants failing the test will not be hired. If the applicant is already a City employee, s/he will be disciplined in accordance with Section IX of this directive.

B. Random Testing - Employees of the Police Department are subject to quarterly random drug testing during their initial probationary period.

C. Reasonable Suspicion Testing of City Employees.

1. If it appears that an employee is in immediate need of medical assistance, the supervisor is to contact the City Paramedics by calling 911, or 9-911 from most City telephones.

2. In non-emergency situations, whenever a supervisor has reasonable suspicion, as defined in Section III.C of this directive, that an employee is under the influence of alcohol, controlled substances, or other intoxicants, the supervisor shall immediately:

   a) Relieve the employee of his or her duties;

   b) Contact the Department Director or the Director's designee, state the observations that cause the supervisor to believe the employee is under the influence of a controlled substance or alcohol or other intoxicants, and receive direction as to whether to have the employee tested pursuant to this directive;

   c) If the supervisor is directed to have the employee tested, during normal working hours (8:00 a.m. to 5:00 p.m.) the supervisor or the person designated by the department to do so is to contact Risk Management to arrange for immediate testing of the employee. After working hours, the supervisor is to contact the City Physician answering service. The supervisor will request arrangements for a drug and/or alcohol test and will leave their name and number to be called back. The answering service will contact an on-call nurse who will contact the supervisor. The nurse will advise the supervisor regarding the facility that will test the employee. Clinic personnel will meet the supervisor and the employee at the designated site.

   d) Transport the employee to the City Physician or other designated facility for testing. Employees are not to transport themselves.

   e) The supervisor shall drive or arrange to have the employee driven home after being examined by the City Physician.

   f) An employee's refusal to submit to testing pursuant to this directive will be treated the same as a positive test result and is grounds for termination.

3. Employees undergoing reasonable suspicion testing will not be allowed to perform driving or other safety-sensitive functions until the test results are known to be negative.

   a) The supervisor is to advise the employee that he/she is not allowed to return to work until the results are known to be negative. The employee is to be placed on sick leave or, at the employee's request, leave without pay, and the supervisor shall drive or arrange to have the employee driven home. The employee must also be advised as to the appropriate person to contact to make arrangements for further examination by the

City Physician. (The appropriate contact will be either the Department's Personnel Section or the Risk Management Division, depending on individual department procedure).

b) In the event the test results are negative, the employee will be credited for the amount of sick leave used, or paid for any time on leave without pay.

4. The supervisor shall make a complete written report to the Department Director regarding each incident, including all observations regarding the employee's behavior. The Department Director shall forward a copy of the report to Risk Management.

5. The City Physician will notify the employee of the test results and forward the results to the City Risk Manager as soon as practical. The Risk Manager shall release the results to the Department Director or designee immediately. All test results must be maintained as confidential medical records.

6. If the test results are negative and the employee has not yet returned to work, the department shall immediately instruct the employee to return to work.

D. Post Accident Testing for City Employees Who Drive for the City. The same rules applicable to post-accident testing for CDL employees shall apply to any City employee driving on City business. See Section VII.B.4 of this directive.

IX. DISCIPLINE FOR VIOLATION OF THE CITY'S ALCOHOL AND/OR CONTROLLED SUBSTANCE POLICIES

A. Controlled Substances: Any City employee who tests positive or violates the Policy Regarding Controlled Substances, Section IV.A of this directive, shall be terminated.

B. Alcohol and other intoxicants:

1. Any employee who tests positive with an alcohol concentration of .04 percent or higher or who otherwise violates the Policy Regarding Alcohol or Other Intoxicants, Section V of this directive, will be subject to disciplinary action, which may include termination.

2. A second alcohol or other intoxicant violation shall result in the employee's discharge.

C. An employee's refusal to submit to testing as provided in this directive will be treated the same as a positive test result and is grounds for termination.

X. REFERRAL FOR TREATMENT AND FOLLOW-UP TESTING

A. All employees who test positive for alcohol or other intoxicants and *are not discharged* will be referred to the Substance Abuse Professional for assessment and counseling. Employees who are not discharged for a first offense and who fail to comply with the Substance Abuse Professional's recommendations shall be discharged.

B. CDL drivers who test positive for controlled substances or alcohol and are discharged will be provided by the Human Resources Department information regarding controlled substances and alcohol counseling and community resources.

C. Any leave to attend counseling and/or treatment facilities pursuant to this section is subject to the provisions of the City's Leave Policy.

D. If an employee successfully completes a rehabilitation program, he or she must complete a return to duty controlled substance and/or alcohol test and be released by the City Physician prior to returning to work.

E. All employees who are returned to the workplace after having tested positive for alcohol or other intoxicants must participate in follow-up testing as prescribed by the substance abuse professional. CDL employees will be subject to follow-up testing as described in Section VII.B.6 of this directive.

XI. RELATED DIRECTIVES

2.02-16	Disciplinary Action, Employee Review Process
6.01-6	Driver's License Policy
2.01-7	Employee Leaves

Appendices None

References None

Review Responsibility and Frequency The Director of Human Resources, City Attorney, and Risk Management shall review and revise this directive as appropriate

Authorized

City Manager

7/27/05
Date