

## Drug and Alcohol Testing Policy

### I. Purpose

To establish the City's policy on drug and alcohol testing for non-represented employees. Represented employees are covered by their collective bargaining agreements or other relevant department policies.

### II. Policy

The City of Lynnwood has a significant interest in the health and safety of its employees and the citizens of the City of Lynnwood. It is the policy of the City of Lynnwood to take those steps necessary to ensure that its employees perform their duties and responsibilities free of the influence of drugs and alcohol. Employees are encouraged to seek confidential counseling on problems associated with alcohol and drug abuse through the Employee Assistance Program when such problems occur. However, participation in such counseling will not prohibit the City from taking disciplinary action consistent with Section IX for any employee violation of this policy.

### III. Application

This policy applies to non-represented employees, who are not required to have a CDL license. Employees required to have a CDL will be subject to the standards required of CDL employees in the Teamsters Bargaining Unit.

### IV. Definitions

**ACCIDENT** - Accident means an occurrence involving a vehicle on a public road which results in (1) a fatality; (2) bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or (3) one or more motor vehicles incurring disabling damage requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.

DRIVER - This term includes all employees whose positions may involve driving a vehicle.

DRUGS – All forms of narcotics, depressants, stimulants, analgesics, hallucinogens, and cannabis, whose sale, purchase, transfer, use or possession is prohibited, controlled or restricted by federal and/or state law.

MEDICAL REVIEW OFFICER (MRO) - The Medical Review Officer is the licensed physician responsible for receiving and interpreting laboratory results from the tests covered under this policy.

SUBSTANCE ABUSE PROFESSIONAL (SAP) - A Substance Abuse Professional is a licensed physician, or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug-related disorders. The SUBSTANCE ABUSE PROFESSIONAL is responsible for evaluating employees with positive test results.

V. Prohibited Conduct

The following conduct regarding alcohol and drug use or abuse is prohibited:

- A. **ALCOHOL CONCENTRATION**  
An employee may not report for or remain on duty requiring the performance of duties covered under this policy while having an alcohol concentration of 0.04 or greater.
- B. **ALCOHOL POSSESSION AND ON DUTY USE OF ALCOHOL**  
An employee may not possess or use alcohol while on duty, while operating a City vehicle, or while operating City equipment.
- C. **PRE-DUTY USE OF ALCOHOL**  
An employee may not operate a City vehicle or use City equipment within four hours after using alcohol. An on-call employee who consumes alcohol within four hours of being called in must acknowledge the use of alcohol and may not report for duty.
- D. **ALCOHOL USE FOLLOWING AN ACCIDENT**  
An employee required to take a post-accident alcohol test may not use alcohol for eight hours following the accident, or until a post-accident alcohol test is given, whichever comes first.

E. USE OF DRUGS

An employee shall not report for duty or remain on duty which requires driving a City vehicle or operating City equipment when the employee has used a drug or drugs, except when the use is pursuant to instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a vehicle or equipment. Employees who are taking a prescription or over-the-counter medication that may impair their ability to perform their duties safely and effectively should provide written notice from their physician or pharmacist with respect to the effects of such substances.

F. REFUSAL TO SUBMIT TO A REQUIRED TEST

An employee shall not refuse to submit to a reasonable suspicion or follow-up alcohol or drug test as directed by this policy.

G. POSITIVE DRUG OR ALCOHOL TEST

An employee may not report for duty or remain on duty if the employee tests positive for alcohol or drugs, except when the use of such drugs is pursuant to instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a vehicle or equipment.

H. TAMPERING WITH A REQUIRED TEST

An employee shall not tamper with, adulterate, alter, substitute or otherwise obstruct any testing process required under this policy.

I. POSSESSION, TRANSFER OR SALE

No employee may possess, transfer or sell drugs or alcohol while in any position covered by this policy.

VI. Testing

A. Reasonable Suspicion Testing

In cases in which at least one (1) supervisor, (and another supervisor or employee, if possible) have reasonable suspicion to believe that the employee is under the influence of controlled substances, the City may require the employee to undergo a urine specimen collection or breath alcohol analysis.

All supervisors and City representatives designated to determine whether reasonable suspicion exists to require an employee to undergo drug or alcohol testing shall receive specific training, in a prescribed training program, on the physical, behavioral, speech and performance indicators of how to detect reasonable suspicion of alcohol misuse or use of controlled substances. The observations may include the indication of chronic and withdrawal effects of controlled substances.

In the event the City requires a reasonable suspicion test, the City shall provide transportation to and from the testing location.

If removed from duty based on reasonable suspicion of alcohol use and an alcohol test is not administered within eight hours, the employee will not be allowed to perform or continue to perform his or her job until:

- 1) An alcohol test is administered and the employee's breath alcohol concentration measures no more than 0.00; or
- 2) 24 hours have elapsed following the determination that there is reasonable suspicion to believe that the employee has violated this policy concerning the use of alcohol.

**B. Return to Duty Testing**

Employees who have violated this policy, including those who have tested positive on a drug or alcohol test, and who under the discipline policy are allowed to return to work, must test negative prior to being released for duty. A return to duty test following alcohol misuse may not exceed an alcohol concentration of 0.00.

**D. Follow-up Testing**

An employee who is referred for assistance related to alcohol misuse and/or use of drugs is subject to unannounced follow-up testing for a period not to exceed 60 months as prescribed by a Substance Abuse Professional and directed by the City of Lynnwood. The number and frequency of follow-up testing will be determined by the Substance Abuse Professional and the City of Lynnwood, but will not be less than six tests in the first 12 months following the employee's return to duty.

**E. Re-tests**

Employees who test positive for drugs may request a second test of the remaining portion of the split sample within 72 hours of notification of a positive test result by the Medical Review Officer. The employee shall pay for such testing.

**VII. Refusal to Take an Alcohol or Drug Test**

No employee shall refuse to submit to an alcohol or drug test as directed under this policy. A refusal to submit shall include, but is not limited to:

- a. Failure to provide adequate breath for testing without a valid medical explanation after the employee has received notice of the requirement for breath testing;
- b. Failure to provide adequate urine for drug testing without a valid medical explanation after the employee has received notice of the requirement for urine testing;
- c. Engaging in conduct that obstructs the testing process.

Refusal to submit to a test shall be considered the same as a positive test result.

#### VIII. Confidentiality and Record Retention

All records related to drug and alcohol testing will be maintained in a secure location with controlled access. These records will be kept separate from records pertaining to other employees.

#### IX. Consequences of Engaging in Prohibited Conduct or Positive Drug or Alcohol Tests

##### A. Positive Test Result and/or Engaging in Prohibited Conduct.

If an employee tests positive for drugs or has an alcohol test indicating a breath alcohol level of .04 or greater from a reasonable suspicion or post-accident test, or engages in prohibited conduct as outlined in Section V, the employee will be immediately removed from duties.

Employees testing positive for alcohol or drugs shall be referred to the City's Employee Assistance program (EAP). The City will provide assistance to the extent covered by the City's employee benefit and leave policies. Discipline, if any is taken, will be based upon the employee's participation in the EAP's recommended rehabilitation program and the severity of any offenses committed during work hours while under the influence of alcohol or drugs. Employees are subject to discipline up to and including discharge if they refuse to submit to either a urine specimen or breath alcohol test in accordance with the provisions of this policy. Employees who come forward prior to any drug or alcohol-related incident shall not be subject to suspension or discharge for doing so.

Any employee who tests positive for drugs or alcohol may be subject to disciplinary action, up to and including termination, depending upon the circumstances of the situation. Circumstances, which warrant termination, may include, but are not limited to, incidents where the employee's impairment resulted in loss or serious risk of loss of life, serious injury or serious risk of injury to self or others, or the serious loss or serious risk of loss of damage of property.

In cases where termination is not warranted, the employee will not be permitted to return to work unless he/she:

1. Has been evaluated by a qualified Substance Abuse Professional through the City's Employee Assistance program and,
2. If recommended by that Substance Abuse Professional, has properly followed any rehabilitation prescribed; and,
3. Has a verified negative result on a return-to-duty alcohol (0.00) and/or drug test.

If an employee is found by professional evaluation to be chemically dependent, following a violation of this policy that would warrant termination of employment, the City may, at its discretion, dependent upon the circumstances of the violation, the employees' work record and other relevant factors, and in lieu of termination, allow an employee who enters into and completes a recommended inpatient and/or outpatient treatment program to maintain their employment with the City under the terms of a "last chance agreement" mutually entered into between the employee and the City.

If permitted to remain in employment with the City, the employee will submit to a return-to-work drug screen urinalysis and alcohol breath test as prescribed by the Substance Abuse Professional and directed by the City of Lynnwood, with results to the Substance Abuse Professional. The test may be an observed collection. This test must be negative before returning to work.

Upon completion of the recommended rehabilitation program and successful return to work, an employee will be subject to follow-up random testing for up to sixty (60) months as prescribed by the Substance Abuse Professional and directed by the City of Lynnwood, with a minimum of six such unscheduled tests within the first twelve months of returning to duty. The employee will be required to pay the cost of the unscheduled tests.

**B. Alcohol Concentration of 0.02 but less than 0.04**

Employees having a breath alcohol concentration of at least 0.02 but less than 0.04, shall be removed from duty requiring the driving of a vehicle or the operation of equipment for at least 24 hours.

C. Discipline

An employee will be subject to appropriate disciplinary action based on just cause up to and including termination from employment if:

- a. The employee tests positive for a drug or drugs;
- b. Results from an alcohol test indicate a breath alcohol level of 0.02 or greater; and/or,
- c. The employee has engaged in prohibited conduct as outlined in Section V.

In the event that a second positive random drug or alcohol test occurs at any time and is not overturned as a result of a split-sample test, the employee will be terminated for cause.

All employees regardless of disciplinary action taken will be advised of resources available to the employee in evaluating or resolving problems associated with drug use or alcohol misuse.

IX. Employee Assistance Program/Voluntary Referral

The City of Lynnwood supports employees who volunteer for treatment of alcohol or drug abuse. Employees are encouraged to seek treatment voluntarily and to utilize the Employee Assistance Program. Any employee who comes forth and notifies the City of Lynnwood of alcohol or drug abuse problems will be given the assistance extended to employees with any other illness. Any such program, however, may not interfere with the tests required by these rules. For example, a driver may not identify himself/herself as unfit to drive after having been notified of a random or reasonable suspicion test and expect to avoid the consequences for a positive test or a refusal to test. In addition, voluntarily seeking assistance does not excuse any failure to comply with all of the provisions of this policy or other policies of the city.

Sick leave, vacation leave or leave of absence without pay may be granted for treatment and rehabilitation as in other illnesses. Insurance coverage for treatment will be provided to the extent of individual coverage. Reasonable confidentiality of information will be exercised.

Approved:



Mike McKinnon, Mayor



Date

