

CITY OF DEER PARK DRUG-FREE AND ALCOHOL-FREE WORKPLACE
POLICY

Adopted by City Council by Resolution on Sept. 1, 2015

It is the policy of the City of Deer Park to:

- Maintain a safe, drug-free and alcohol-free work environment for its employees, conducive to effective city government operations.
- Prohibit the manufacture, distribution, dispensation, possession, sale or use of controlled substance drugs or other intoxicants by employees at any time on-or off duty.
- Ensure that while on duty for or acting on behalf of the City, while wearing a City uniform and/or in a City vehicle, while on City premises during work hours, employees will not be impaired by alcohol, intoxicants, or have controlled substances present in their systems not prescribed by a licensed physician.
- Require employees taking prescription medications that would impair their ability to operate vehicles, machinery, or equipment in a safe manner, to inform their supervisor of the potential danger.
- Follow the Omnibus Transportation Employee Testing Act of 1991 requiring employees holding a Commercial Driver's License (CDL) to be tested for use of controlled substances and misuse of alcohol. All employees who are required to have a CDL are subject to the controlled substance and alcohol testing rules set forth by the Department of Transportation. The Human Resources Department maintains a list of positions requiring a CDL.

While use of medically prescribed medication is not a per se a violation of this policy, failure by the employee to notify his/her supervisor, before beginning work, when taking medications or drugs which may interfere with the safe and effective performance of duties or operation of City equipment can result in discipline, up to and including termination. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications, clearance from a qualified physician, approved by the City Manager, will be required.

Violations of this policy shall be grounds for disciplinary action, up to and including discharge. Refusal by an employee to submit immediately to an alcohol and/or drug analysis when requested by the employee's Department Head and the City Manager or law enforcement personnel may constitute insubordination and may be grounds for discipline up to and including termination.

A. APPLICATION

This policy applies to all employees of, fire and EMS volunteers and to all applicants for positions with the City of Deer Park. This policy applies to alcohol and to all substances, drugs, or medications, legal or illegal, which could impair an employee's ability to effectively and safely perform the functions of the job.

B. RESPONSIBILITIES

1. Employees must:

- Not manufacture, distribute, dispense, or possess, sale or use any controlled substance or drugs at any time.
- Not consume alcohol during working hours including lunches and breaks.
- Not consume alcohol for at least 4 hours prior to reporting to work or operating city vehicles or equipment for a sufficient amount of time to allow the blood alcohol to return to a level of less than 0.04.
- Immediately notify their immediate supervisor of being arrested and charged with a driving while intoxicated (DWI) or driving under the influence (DUI) offense if the employee's duties include driving a City vehicle.
- Immediately notify their immediate supervisor of being arrested and charged for possession of drugs or a violation of any criminal drug conviction.
- Notify their immediate supervisor if they are impaired, due to alcohol or on prescription drugs, and unable to safely perform their duties. It is the employee's responsibility and obligation to determine, by consulting a physician if necessary, whether or not a legally prescribed drug s/he is taking may or will affect his/her ability to safely and efficiently perform his/her job duties. An employee whose impairment may affect job performance must contact his/her supervisor to determine if an attempt to find an appropriate temporary alternative assignment is necessary. If none is available, the employee may take sick leave or be placed on a medical leave of absence (if available and the employee otherwise qualifies) or take other steps consistent with the advice of a physician. If an employee reports to work under the influence of prescription medication and, as a result, endangers him/herself or others, the employee will be disciplined, up to and including termination.
- Notify their immediate supervisor of changes in their CDL status.

2. Supervisors are responsible for:

- Enforcing the appropriate provisions outlined in this procedure.
- Submitting the documentation to the Director of Human Resources.

- Determining if reasonable suspicion exists to warrant drug/alcohol testing and detailing in writing the specific facts, symptoms, or observations, which form the basis for the reasonable suspicion.
- Contacting the City's approved testing contractor as listed in Appendix B. A supervisor shall remain with the employee until the technician arrives on site to conduct the test or arrange for the employee to be transported to the designated facility where testing is to be performed as directed by the contractor.
- Accompanying the employee for a return to duty or follow-up drug/alcohol testing.
- Instructing the appropriate testing facility that a drug and alcohol screening be performed, according to protocol as established by the City of Deer Park.

3. The Director of Human Resources (or designee) is responsible for:

- Selecting the medical contractor and/or facility that will conduct collections and screenings.
- Notifying Directors and Managers of the positions within their respective departments, which are classified as DOT and those employees that will be subject to random drug/alcohol testing.
- Coordinating random drug/alcohol tests in collaboration with department designees.
- Receiving the results of drug/alcohol tests of departmental employees and applicants.
- Retaining all drug/alcohol test-related records for employees and applicants.
- Ensuring all drug/alcohol tests, notices, forms and results are kept confidential, to the extent allowed by law.
- Coordinating the use of the Employee Assistance Program (EAP).
- Developing a training program to assist supervisors to recognize the conduct and behavior that gives rise to a reasonable suspicion of drug/alcohol use by employees.
- Notifying a department of its employees randomly selected for drug/alcohol testing.
- Developing and ensuring proper protocols are on file with testing agencies.

4. Medical Contractor and/or Facility Responsibilities:

- Performing alcohol testing for all employees in accordance with city, state, and federal guidelines. If breath alcohol testing is performed, it will be performed with certified equipment by a certified technician. If a medical facility is used that does not have certified breath alcohol testing equipment, blood will be taken from the employee in accordance with city, state and federal guidelines.
- Performing controlled substance testing for all employees and selected applicants in accordance with city, state and federal guidelines.
- Immediately implementing the steps necessary to ensure test confirmation when initial test results are positive.

- All procedures to be performed using applicable chain of custody established standards.
- Informing the employee/applicant of split sample testing.

C. TESTING

1. Applicant Testing

All applicants for positions with the City of Deer Park shall be required to undergo a drug and alcohol testing as a condition of employment. If a drug analysis is positive the applicant must provide, within 24 hours upon a request from the Human Resources Department, a valid current prescription for the drug identified in the drug analysis. If the prescription is not in the applicant's name or the applicant does not provide a valid current prescription, or if the drug is one that impairs the applicant's ability to perform the job duties, the offer of employment shall be withdrawn.

2. Random Employee Testing

Employees who operate motor vehicles or equipment, or work in certain Safety or Security Sensitive roles, including many roles involving Public Safety may be ordered to submit to a drug analysis on a random basis. Random selection will be performed through an unbiased computer-generated process operated by a third party contractor. The percentage of the workforce to be tested under this procedure and the frequency of testing shall be determined by City management. Sworn police officers assigned to the Special Weapons and Tactical Team or assigned to special narcotics investigation units may be ordered to submit to a drug analysis at any time as directed by the Chief of Police. The frequency of such testing shall be determined by the Chief of Police. This requirement shall be additional to all other provisions for drug and alcohol testing provided for in this policy. A list of Safety Sensitive positions subject to random testing under this paragraph is attached.

3. Reasonable Suspicion Testing

Reasonable suspicion is defined as a belief by the supervisor or another City employee based on specific facts and reasonable inferences drawn from those facts that an employee is under the influence of drugs or alcohol to the extent that job performance may be impaired or the ability to perform the job safely may be reduced. If an employee suspects that another employee is under the influence, they must report it to their supervisor or to Human Resources immediately. A Supervisor shall require an employee to undergo a drug/alcohol test if there is

reasonable suspicion that the employee is impaired by drugs or alcohol while acting in the scope of employment on behalf of the City or has otherwise violated this policy.

Supervisors and Directors shall be responsible for determining if reasonable suspicion exists to warrant drug/alcohol testing, and shall be required to document in writing the specific facts, symptoms, or observations which form the basis for such reasonable suspicion. If a specific, contemporaneous, articulable observation concerning the appearance, behavior, speech, or a body odor of the employee exists, the supervisor shall contact another supervisor to view and confirm their suspicion. Directors shall immediately contact the Director of Human Resources or designee for instructions regarding a "reasonable suspicion" test. If the reasonable suspicion occurs after normal business hours, the supervisor shall follow the procedures outlined in Appendix B. It shall be the responsibility of the Director to contact the Human Resources Department at the first opportunity the next business day to discuss the reasonable suspicion testing of the employee.

Circumstances which constitute a basis for determining "reasonable suspicion" may include, but are not limited to:

- a. A Pattern of Abnormal or Erratic Behavior - This includes, but is not limited to a single, unexplainable incident of serious abnormal behavior or a pattern of behavior which is radically different from what is normally displayed by the employee or grossly differing from acceptable behavior in the workplace.
- b. Information provided by a Reliable and Credible Source – The supervisor receives information from a reliable and credible source that an employee is violating this Policy.
- c. Direct Observation of Drug/Alcohol Use - The supervisor or another employee directly observes an employee using drugs/alcohol while the employee is on duty or acting in the scope of employment. Under these circumstances, a request for drug/alcohol testing is MANDATORY.
- d. Presence of Physical Symptoms of Drug/Alcohol Use - The supervisor or another employee observes physical symptoms that could include but are not limited to glassy or bloodshot eyes, slurred speech, poor motor coordination, or slow or poor reflex responses different from what is usually displayed by the employee or generally associated with common ailments, e.g., colds, sinus, hay fever, diabetes, etc.
- e. Aggressive or Threatening Behavior - If an employee engages in unprovoked, unexplained, aggressive, violent and/or threatening behavior against a fellow employee or a citizen, the department may request that the employee submit to drug/alcohol testing.

4. At-Fault/Post-Accident (Non-CDL)

Any employee and/or volunteer who is involved in an accident while operating a City vehicle or motorized equipment will be required to take a drug and alcohol test if:

- The accident results in damage or loss to any property over one thousand (\$1000.00) dollars and/or an injury requiring medical attention beyond basic on-scene first aid to any person or involves a fatality.

Individuals to be tested in an accident situation shall include any individual directly involved in the accident whose order, action, or failure to act is determined to be or cannot be ruled out as a causative factor in the events leading to or causing the accident; and

Drug/alcohol tests are to be performed as soon as possible after the accident/incident occurs. (Please see Appendix B for instructions). Post-accident testing that does not take place immediately after the accident/incident must be documented by the employee and supervisor as to the reasons for delay. Undocumented reasons for not testing immediately will be considered a refusal to test.

Employees will not be allowed to drive a City vehicle or operate any equipment until the test results have been confirmed to be negative by the Medical Facility.

An employee who is seriously injured and cannot provide a specimen within two hours after the accident will provide necessary authorization to the City for obtaining hospital reports and other documents that would indicate whether there were any controlled substances or alcohol in their system at the time of the accident.

5. Commercial Driver's License (CDL) Personnel

The commercial driver's license (CDL) program is established to provide rules and regulations pursuant to the Federal Motor Carrier Safety Administration (FMCSA) and Texas Department of Transportation (TxDOT). The medical facility selected by the City will perform all alcohol and drug testing procedures for CDL employees in accordance with city, state, and federal guidelines. All employees who hold a CDL must meet the following requirements:

a. Random Testing for CDL personnel

Any employee who holds a CDL and who may operate vehicles that require CDL licensing will be in the random drug testing pool, regardless of how often the employee operates the vehicle or how often the vehicle is used on the job. All CDL drivers are subject to unannounced alcohol and controlled substance testing based on a computer generated random selection. In a random selection process, a high probability exists that some employees will be selected several times while others

may never be selected. This is because after each selection, the employee’s name is returned to the same pool, and he or she becomes just as likely as anyone else to be selected next time. Drivers must be tested randomly at a minimum annual percentage rate of 10% of the number of drivers for alcohol testing and 50% of the number of drivers for controlled substances testing. The City shall ensure that random testing will be unannounced and done on a quarterly basis. In the event that an employee who is selected for a random test is on vacation, sick or an extended medical absence, another employee will be selected as an alternate.

b. Post-Accident Testing for CDL personnel

For Post-Accident purposes employees must be tested for drug and alcohol for the following reasons:

Type of Accident Involved	Citation Issued to the City Driver	Test Must be Performed
Human Fatality	Yes	Yes
	No	Yes
Bodily injury with immediate medical treatment away from the scene	Yes	Yes
	No	No
Disabling damage to any motor vehicle requiring tow away	Yes	Yes
	No	No

The employee or supervisor must notify the technician that the employee is a CDL holder and a DOT testing procedure will be used.

c. Reasonable Suspicion Testing for CDL Personnel

An employee may be required to undergo drug and alcohol testing when the City has a reasonable suspicion to believe the employee is under the influence of drugs or alcohol. The City shall follow all DOT Guidelines before and during administration of a reasonable suspicion alcohol or drug test. A CDL driver may not resume driving until his alcohol concentration measures .02 or less or 24 hours has elapsed since the test.

6. Other Requirements for CDL personnel

Any employee who, after notification refuses to test shall be terminated. All CDL holders must have a motor vehicle records (MVR) check done annually. If an employee no longer holds a CDL, Human Resources personnel must be notified to remove the employee from the random pool.

Human Resources personnel shall maintain a current list of the CDL drivers and shall forward the list to the medical facility as deemed appropriate.

Prior to finalizing a change in status to a position, which requires a CDL, a pre-placement drug/alcohol test will be performed. Any conditional offer into a job requiring a CDL shall be withdrawn if the test results are positive. The Human Resources Department must receive a negative drug/alcohol test result before the employee may officially change jobs.

7. Facilities and Instructions

For all at fault, post-accident or reasonable suspicion testing, follow the instructions listed in Appendix B. A supervisor (or his/her designate) shall remain with the employee until the technician arrives on site to conduct the test, or escort the employee to the designated facility where testing is to be performed as directed by the contractor.

D. TESTING PROCESSES

1. Notification

Employees selected for drug/alcohol testing for any reason shall be notified by the appropriate Director or Manager or designee to submit to the drug/alcohol test and given directions on how to proceed (See Appendix B). All employees selected for drug and alcohol testing will be required to complete a document consenting to the administration of the drug/alcohol test, and failure to complete the document is considered a refusal to test.

Once an employee has been notified to take a drug/alcohol test, unless hospitalized, no sick or other leave may be authorized until the collection process is completed.

2. Collection Process

Photo identification is required to submit to a drug/alcohol test.

An employee has 4 hours from the time a representative of the testing facility first asks the employee to provide a urine specimen to complete all requirements of the collection process for a drug test. Failure to provide a urine specimen within this time frame will be considered a refusal to test.

Where the employee appears unable to provide a specimen at the time of the test, testing personnel shall document the circumstances and the employee shall be permitted no more than four (4) hours to give a sample, during which time he/she shall remain in the testing area,

under observation. Reasonable amounts of water may be given to the employee to encourage urination. Failure to submit a sample shall be considered a refusal to submit to a drug test.

An employee must immediately submit to and complete an alcohol breath test once the Breath Alcohol Technician asks the employee to begin the alcohol breath test. Failure to submit to and complete the alcohol breath test is considered a refusal to test.

3. Drug Testing Process

When drug testing is required or authorized under the provisions of this policy, a urinalysis test will be given to detect the presence of amphetamines, cocaine metabolites, opiate metabolites, phencyclidine, marijuana metabolites, barbiturates, methaqualone, methadone, benzodiazepines and propoxyphene.

The threshold amount for reporting a positive test result shall be 20 ng/ml for cannabinoids marijuana and 300 ng/ml for amphetamines. The threshold amounts for reporting a positive test result for all other substances identified in the paragraph above shall be as determined by the testing laboratory based on the test performed.

The initial drug testing shall be administered at a City approved medical facility and at the City's expense. If an initial drug test yields a positive result, a second confirmatory test, at City expense will be conducted on a portion of the same urine sample provided by the applicant or employee for use in the initial drug test.

If the second test also results in a positive, or a verified adulterated or substituted test result, the Medical Review Officer will notify the employee of the verified positive test result. The employee has 72 hours from this notification to request a split specimen test. The split specimen refers to the urine specimen collected during drug testing that is sent to the laboratory and retained unopened. The split specimen can be tested at the employee's request and paid for by the employee.

If a drug and/or alcohol analysis is confirmed positive, the employee must provide, within 24 hours of a request by Medical Review personnel, a valid current prescription for the drug identified in the drug analysis. If the employee does not have a valid current prescription, or if the prescription is not in the employee's name, or if the employee has not previously notified his/her supervisor, the employee will be subject to disciplinary action up to and including dismissal.

In cases of drug testing based on reasonable suspicion or post-accident, the employee's Director, with Human Resources review and the approval of the City Manager, may require that the employee's urine specimen be tested for anabolic steroids or LSD if the employee's supervisor has reason to believe that either of these two substances may have contributed to the circumstances creating the basis for the employee to be tested. Sworn police officers

assigned to the Special Weapons and Tactical Team or assigned to special narcotics investigation units may be ordered to undergo a test for anabolic steroids or LSD at any time as directed by the Chief of Police. Specimen collection and testing procedures for anabolic steroids and LSD shall be the same as for other drug testing under this policy.

4. Alcohol Testing Process

Alcohol testing using Department of Transportation's certified Evidence Breath Testing (EBT) device shall be completed by a certified Breath Alcohol Technician (BAT).

Employees must not come to work under the influence of alcohol and shall not have had any alcoholic beverage within 4 hours of reporting to work or a sufficient amount of time to allow blood alcohol to return to a level of less than 0.04. Once conducted, if the test results in an alcohol concentration of 0.04 (.03 for CDL drivers) or higher, then a confirmation test must be performed. The BAT will ensure a waiting period of at least 15 minutes, starting with the completion of the initial screening test, but not more than 30 minutes before conducting the confirmation test. The employee will not be allowed to eat, drink, belch, or put anything (i.e. cigarette, chewing gum) into their mouth until the confirmation test has been conducted.

If the alcohol confirmation test result is lower than 0.04, nothing further is required of the employee. If the alcohol confirmation test result is 0.04 or higher, please refer to the following section regarding Consequences of drug/alcohol positive test results on duty.

5. Refusal to Test

Any employee who, after notification of the consequences, refuses to test shall be terminated.

E. CONSEQUENCES

1. Consequences of an Adulterated Sample

Any employee, whose sample is suspect, due to adulteration, will be given an opportunity to re-test without prior notice. If an employee refuses to re-test after given notification of the consequences of refusal, the employee shall be terminated.

2. Consequences of Positive Alcohol Test Results On-Duty

If the employee's confirmatory test results indicate a breath alcohol level of 0.04 (.03 or greater for CDL drivers) or greater, a positive test result will be confirmed. If disciplinary action does not result in termination, the employee may be subject to demotion and will be required to meet with a Substance Abuse Professional (SAP), follow the treatment program prescribed by such SAP and must test below 0.04 (less than .03 for CDL drivers) on a return to duty test. The employee will then be subject to periodic unannounced alcohol testing for the next 60 months.

During this time, if a follow up test is conducted and the employee is confirmed having a breath alcohol level of 0.04 or greater, the employee shall be terminated.

3. Consequences of Positive Alcohol Test Results Off-Duty

An employee who is charged with a driving while intoxicated (DWI) or driving under the influence (DUI) offense must immediately report the charge to their supervisor, if the employee's duties include driving a City vehicle. The City may restrict or suspend the employee from performing duties involving the driving of a vehicle or take other disciplinary action to the extent necessary to protect the public. The City may require an employee to seek counseling through the City's EAP program as a condition of continued employment.

Personal driving records can impact employees who must drive city vehicles or equipment to perform their jobs. Personal motor vehicle record checks will be conducted from time to time on all employees who drive city vehicles/equipment. Any employee found to have been convicted of 1 DWI/DUI in the previous 3 years from the date the MVR is examined who has not previously reported this arrest(s) and conviction(s) to his supervisor faces discipline up to and including termination of employment will receive counseling and be required to meet with a SAP through the City's EAP program. Any employee found to have been convicted of 2 DWIs/DUIs in the previous 3-year period will be restricted from driving city vehicles/equipment. This requirement can affect an employee's ability to perform essential job requirements and may result in demotion to a non-driving position or termination if no available position exists for which the employee qualifies. Police departmental policies may be more stringent than requirements listed here. Police department employees should ensure knowledge and understanding of departmental policies in this area.

Any employee with a substance abuse problem is encouraged to seek treatment through the employee assistance program (EAP). Please refer to Human Resources personnel for more information regarding the EAP. Employees must request such assistance before testing positive on a drug or alcohol test.

4. Consequences of Positive Drug Test Results On-Duty

Any employee whose drug test result has been confirmed positive shall be terminated, except that, depending on the circumstances of the case and the employee involved, the employee may be offered a one-time opportunity to enter and successfully complete a rehabilitation program that has been approved by the City. Participation in the rehabilitation program will be during times that will not conflict with the employee's work time, except that the employee may use any available sick leave or annual leave in order to be absent from the job with pay. During rehabilitation, the employee will be subject to unannounced drug or alcohol testing. An employee who is offered this one-time opportunity for a rehabilitative program must sign a Last Change Agreement acknowledging the employee's immediate termination will occur if a

positive drug or alcohol test result occurs. Rehabilitation assistance may also be granted in lieu of termination to an employee who has been found to be in violation of this policy provided:

- the policy violation does not involve selling or distributing drugs or serious misconduct related to drugs, and
- the employee has agreed to enter and complete the City-approved rehabilitation program.

5. Consequences of Drug Usage and Drug-related Offenses Off-Duty

Employees who are arrested and charged, with any federal or state law relating to the use, possession, or manufacture of a drug or drug paraphernalia must immediately report the charge to their supervisor. The City will also require an employee to seek counseling through the City's EAP program as a condition of continued employment. Also, the employee will be required to submit to unannounced drug testing for 24 months following the arrest. During this time, if the employee is found to test positive, the employee will be terminated.

If the employee is subsequently convicted or pleads no contest or has deferred adjudication of any federal or state law of a drug usage or drug related offense, including the use, possession, sale or manufacturing of a drug or drug paraphernalia, employee may be terminated immediately.

Any employee with a substance abuse problem will be encouraged to seek treatment through the employee assistance program (EAP). Please see Section of this manual for more information about the EAP. An employee who discloses to the supervisor that the employee has a drug use problem will be required to submit to unannounced drug testing for 24 months following the disclosure. During this time, if the employee is found to test positive, the employee will be terminated.

APPENDICES:

EMPLOYEE’S CONSENT TO DRUG AND ALCOHOL TESTING

I have read and I understand the City of Deer Park's policy regarding the maintenance of a drug and alcohol-free workplace. I understand that it is the practice of the City of Deer Park to conduct drug and alcohol tests for the purpose of carrying out the policy. I understand that I cannot be compelled to give a specimen of my urine or blood. I understand that if I provide a specimen, it will be tested for drugs and/or alcohol. I understand that the provision of a specimen, when requested by the City of Deer Park, is a condition of my continued employment. I understand that if a test of my specimen reveals an unexplained presence of a drug or alcohol, the City of Deer Park may take disciplinary action against me, up to and including termination of my employment.

I authorize the officers, employees and agents of the testing agency and the City of Deer Park to communicate among themselves for official purposes my test results both orally and in writing, and to communicate such test results at any judicial or administrative proceeding. I also authorize the officers, employees and agents of the testing agency, and the City of Deer Park, to have continued access to my specimen for the purpose of any further analysis or study that may be necessary.

At this time I hereby consent to provide a specimen.

Employee Signature

Date

Printed Name

Witness

CONSENT TO PRE-EMPLOYMENT DRUG AND ALCOHOL TESTING

I understand it is the policy of the City of Deer Park to conduct pre-employment of job applicants for the purpose of detecting drug or alcohol abuse. I further understand that one of the requirements for consideration of employment with the City of Deer Park is the satisfactory passing of the City's pre-employment drug and alcohol tests.

I agree to provide a specimen for testing as a part of the regular pre-employment screening conducted by the City of Deer Park and understand that a favorable test result does not necessarily guarantee that I will be employed by the City of Deer Park.

If I am accepted for employment, I agree to provide specimens for testing whenever requested by the City of Deer Park, and I understand that the taking of said tests is a condition of my continued employment.

I also give my consent to the drug testing agency to release to the City of Deer Park the results of any drug tests resulting from my provided specimens so that I may qualify for employment. At this time I hereby consent to a drug test.

Employee Signature

Date

Printed Name

Witness

NOTICE OF LEGAL DRUG USE

In accordance with the City's Drug-free and Alcohol-free Workplace Policy, please be advised that I am currently taking and possessing at work the following legal prescription drug which has been prescribed for a valid medical purpose:

Name of drug: _____

Prescription number: _____ Prescription date: _____

Prescribing physician's name: _____

Prescribing physician's phone number: _____

This drug produces the following side effects:

Dizziness Drowsiness Nausea Other: _____

My use of this drug is:

Temporary and is expected to end on or about _____

Indefinite Permanent

I hereby give my consent for the above named prescribing physician to answer questions about my use of this drug.

Employee Signature

Date

Printed Name

REASONABLE SUSPICION DETERMINATION CHECKLIST

This is to certify that _____ (Manager/Supervisor) has reasonable suspicion to believe that on _____ (date) at _____am/pm, _____ (employee) was (a) in possession of or (b) under the influence of a substance or substances in violation of the Drug-free and Alcohol-free Workplace Policy of the City of Deer Park. The following are the facts that have led me to suspect that the above-named employee has violated the Policy (check all that apply):

- Slurred Speech
- Alcohol smell on breath
- Inability to walk a straight line
- An accident involving city property /equipment where cause by the employee cannot be ruled out
- Physical altercation
- Verbal altercation
- Unusual behavior
- Possession of alcohol or drugs
- Information obtained from a reliable person with personal knowledge
- Other: _____
-

Mgr./Supv. Comments: _____

CITY OF DEER PARK
POSITION CATEGORIES FOR POST-JOB OFFER/ RANDOM DRUG TESTING

SAFETY SENSITIVE POSITIONS

A "Safety Sensitive Position" means a position having a substantially significant degree of responsibility for the safe operation of motor vehicles and motor carrier service, or heavy equipment and machinery, where the unsafe performance of an incumbent could result in death or injury to self or others. Safety sensitive positions include, but are not limited to: operations supervisor, mechanics, positions requiring operation of a city or personal owned vehicle, positions requiring a CDL and anyone supervising employees in the aforementioned positions. This group would also include ALL members of the Emergency Operations Center.

PARKS AND RECREATION DEPARTMENT

Park Operations Superintendent
Building Maintenance Technician Supervisor
Building Maintenance Technician
Asst. Parks Supervisor
Special Services Supervisor
Part Time Senior Services Aide
Recreation Supervisor
Assistant Recreation Supervisor
Theatre Supervisor
Pool Managers
Lifeguards

PUBLIC WORKS DEPARTMENT

Street Maintenance Superintendent
Street Maintenance Supervisor
Senior Equipment Operator
Equipment Operator II
Equipment Operator I
Mosquito Control Technician
Equipment Services Superintendent
Equipment Services Supervisor
Mechanics
Shop Supervisor
Water Production Supervisor
Water Production Operator II
Utility Superintendent
Assistant Utility Superintendent
Utility Supervisor
Senior Utility Maintenance Operator
Utility Groundskeeper
Utility Operator II
Utility Operator I
Senior Lift Station Operator
Lift Station Operator
Treatment Plant Supervisor
Senior Treatment Plant Operator
Treatment Plant Operator II
Asst. Sanitation Supv.
Sanitation Supervisor
Equipment Operators
Crew Leaders
Animal Control Supervisor
Animal Control Officer
Storm Water/Water Resource Specialist

INSPECTIONS DEPARTMENT

Chief Building Official

Inspectors
Code Enforcement Officer

PLANNING & ENGINEERING DEPARTMENT

WAREHOUSE

Warehouse Attendant

UTILITY BILLING DEPARTMENT

Meter Reader

PUBLIC SAFETY POSITIONS

A "Public Safety Position" means a position in the police or fire department having a substantially significant degree of responsibility for the safety of the public where the unsafe performance of an employee could result in the death or injury to self or others, including but not limited to all sworn personnel, emergency communication clerks, police clerks working within the dispatch section, supervisor positions, firefighter/paramedic, dispatcher, mechanics, fire apparatus engineers, fire investigators and fire inspectors.

POLICE DEPARTMENT

Police Chief
Assistant Police Chief
Patrol Officer
Police Cadets
Police ID Officer
Patrol Lieutenant
Patrol Sergeant
Investigators
Captain
Crime Prevention Officer
Public Safety Attendant
Dispatcher Supervisor
Dispatcher Supervisor
School Crossing Guard
Alarm Coordinator
City Marshall
PO/School Resource Officers
Temporary House Checker

FIRE DEPARTMENT

Fire Marshal
Deputy Fire Marshal
Fire Chief
Volunteer Fire
EMS Director
Paramedic
Part Time Paramedic
Station Attendant
EMS Relief Medic

SECURITY SENSITIVE POSITIONS

A "Security Sensitive Position" means a position that requires the incumbent to handle or be responsible for any type of money and/or is responsible for sensitive equipment, such as computers, employee information, etc

Network Administrator
IT Manager
LAN Specialist
Court Administrator
Chief Deputy Court Clerk
Deputy Court Clerk
Finance Director
Accountant
Sr. Accountant
Payroll Coordinator
Purchasing Coordinator
A/P Clerk
Deputy Tax Collector
Customer Service Clerk
Utility Billing Coordinator
Recreation Superintendent
Aquatic/Special Events Coordinator
Customer Service Assistant
HR Director/Risk Mgmt

CITY OF CITY OF DEER PARK

Drug & Alcohol Policy

Appendix B

Drug and Alcohol Policy (DOT and non-DOT personnel)

The City recognizes that drug and alcohol abuse increases risk of accidents; decreased productivity, and medical expenditures. Therefore, the City has a vital interest in maintaining a safe and efficient working environment. In order to achieve this environment, City employees are prohibited from reporting to work or work-related activities under the influence of drugs and/or alcohol. Participation in the Drug and Alcohol Program is a requirement of each employee and is a condition of employment.

The City employs persons in positions that are regulated by the U.S. Department of Transportation (DOT). City employees who drive a commercial motor vehicle requiring a Commercial Driver's License (CDL) as a part of their duties are subject to alcohol and drug testing as mandated by DOT, Federal Motor Carrier Safety Administration (FMCSA), and Federal Transit Administration (FTA), and as outlined in this policy. The City will comply with the regulations set forth by the DOT. In order to assure compliance with related regulations, employees are to defer to 49 CFR, *Parts 40, 382, and 655* of the DOT regulations regarding testing, test administration, etc.

This policy applies to all employees and job applicants of positions within the City that are designated as DOT regulated positions.

- A. Testing to be performed and by whom - Drug testing is conducted by analyzing an employee's urine specimen at a lab certified by the U.S. Department of Health and Human Services. At Deer Park our approved contractor for non-emergency specimens will be Deer Park Family Clinic. Arrangements can be made for after-hours collections. The clinic is located at 2910 Center Street, Deer Park, TX 77536.
- B. After hours testing protocol – For after hours or weekend specimen collections the supervisor will contact the Human Resources after hours cell (281/960-4863) and request the need for after hours testing. HR staff will triage the incident and make arrangements for the collection. All after hours testing is done at Deer Park Family Clinic unless another location is communicated by HR staff. It typically takes about 30 minutes for the collector to arrive at the clinic and set up. The supervisor and employee names will be shared with the collector to be able to identify all parties. The supervisor should park their vehicle near the P street entrance as that is the door the collector will utilize.
- C. The employee will provide a specimen in a location that affords privacy. The “collector” divides the specimen into two (2) bottles (known as “split specimen”) in the presence of the donor, seals and labels it, completes a chain of custody form, and prepares the specimen and accompanying paperwork for shipment to a drug testing laboratory.

Upon verification of a positive test result, the Medical Review Officer (MRO) will notify the employee of the right to have the split specimen tested within 72 hours. The testing of the split specimen will be conducted at the expense of the employee.

Testing will be conducted for prohibited drugs and drug metabolites in the following circumstances:

- Pre-Employment
- Random
- Return to Duty/ Follow- Up
- Post Accident
- Reasonable Suspicion

The following prohibited drugs will be tested for:

- Marijuana (THC)
- Opiates
- Phencyclidine (PCP)
- Cocaine
- Amphetamines

Testing for alcohol will be conducted via breath analysis in the following circumstances:

- Pre-Employment
- Random
- Post Accident
- Reasonable Suspicion
- Return to duty

Whenever the term “drug,” “drugs,” or “controlled substances” are used in this policy, it is in reference to the substances listed above. The City will not test for any other substances under this policy. The City may, however, test for other controlled substances pursuant to its general Drug and Alcohol Policy.

1. Pre- Employment Testing- All applicants for employment (including part-time and seasonal) are subject to pre-employment testing.
 - a. If a pre-employment test is cancelled for any reason, the applicant will be required to take another with a verified negative result. All employment offers are contingent upon passing a drug screen with a negative result and before performing safety sensitive job duties.
 - b. Pre-employment tests are also required when employees are promoted, demoted, or transferred into a DOT regulated position.
 - c. Previous Employer information - the City is required, with the applicant’s written consent, to obtain information from previous DOT regulated employers for the past two (2) years prior to the date of application, promotion, or transfer. The City will ask the previous employer for alcohol test results of 0.04 or greater, verified positive drug test results, refusals to

test (including verified adulterated or substituted drug test results), and any other violation of DOT drug and alcohol testing regulations. The City will obtain and review the information prior to hiring. The City will also ask the applicant if they tested positive, or refused to test on any pre-employment drug or alcohol test administered by an employer to which the employee applied during the past two (2) years. If the person admits to such a conduct, the applicant will not be hired or if they are a current employee, they will not be permitted to perform safety-sensitive functions. If the person refuses to provide the City with the required written consent, they will not be hired or if they are currently employed, will not be permitted to perform safety-sensitive functions.

- d. If the previous employer's response is not obtained within 30 days, the employee will not be allowed to perform DOT functions unless there is documentation of good faith efforts. Evidence of successful completion of a rehabilitation program must be provided from an applicant who previously failed a DOT drug test. The City will maintain a written, confidential record of the information it obtains and/or the good faith efforts it made to obtain the information and will retain it for a minimum of three (3) years.
2. Random - Random testing selections are made using a scientifically valid method (computer based random number generator) and are spread reasonably throughout all periods of the calendar year (all days and hours of operation). Each employee subject to this policy will have an equal chance of being tested each time random selections are made. The number of employees randomly selected will be in accordance with applicable DOT regulations. Each employee randomly selected for testing will be tested during the selection period. Each employee selected for random testing must proceed to the test site immediately after notification. For Deer Park random testing will typically occur at City Hall near the HR office. If the employee is performing a safety-sensitive function at the time of notification, the City will ensure that the employee ceases to perform the safety-sensitive function and proceeds to the testing site within one (1) hour. Refusal to submit to random testing when notified or failure to report to the designated lab within one (1) hour will be considered a test refusal. The HR Director will be the Designated Employer Representative (DER) for the City and will ensure all testing is conducted as required.
 3. Reasonable suspicion - A reasonable suspicion test will be conducted if trained supervisor has reason to believe that an employee is in violation of this policy and the trained supervisor completes the "Supervisor's Checklist for Reasonable Suspicion" form. The reasonable suspicion must be based on specific, contemporaneous, and particular observations concerning the appearance, behavior, speech, and/or body odors of the employee.
 - a. Reasonable suspicion alcohol testing is permitted only if the reasonable suspicion observation is made during, just before, or just after, the period of the work day the employee is required to be in compliance with this policy. If reasonable suspicion alcohol testing cannot be administered within two (2) hours after observation, a written statement explaining why the test was

not promptly administered must be given to the Director of Human Resources. If reasonable suspicion alcohol testing cannot be administered within eight (8) hours after the observation, the City will cease attempts to administer the test and document why the test was not administered.

- b. Reasonable suspicion drug testing will be conducted as soon as practicable but no later than twenty-four (24) hours after the reasonable suspicion observation. If the employee is not tested within twenty-four (24) hours, the supervisor must submit a written report documenting the reason why to the Director of Human Resources.
 - c. Employees being ordered for reasonable suspicion testing will be transported to the testing facility by either their direct supervisor, another supervisor within the department or their director. The employee will not be allowed to drive themselves. If a reasonable suspicion occurs after hours, the supervisor will transport the employee directly to the City's designated facility for testing. The City will make arrangements to have the employee transported home after the testing is complete.
 - d. If a DOT regulated employee refuses to submit to a reasonable suspicion test, they will be verbally advised that successful drug/alcohol tests are a condition of employment.
 - e. While waiting for the results of a reasonable suspicion test, an employee will be placed on administrative leave pending the outcome of the test and subsequent investigation. The employee should not return to the work place until they have been contacted by the Human Resources Generalist or their direct supervisor advising them to do so.
4. Post Incident Testing - In accordance with DOT 49 CFR, Parts 40, 382, and 655, DOT regulated employees will be tested following applicable incidents. Post incident testing will include alcohol and drug testing. When considering DOT post incident testing, all covered employees whose performance could have contributed to the incident will be tested (dispatcher, mechanic, passenger, etc).

Employees must remain readily available for testing after an incident. An employee will not return to duty or perform safety-sensitive job functions until a verified negative alcohol and drug result is received. An employee refusing a post incident test will be considered a test refusal.

- a. Post incident testing will be conducted in accordance with *DOT 49 CFR, Part 655.44 Regulations (FTA)*, if:
 - There is a fatality.
 - One (1) or more of the vehicles suffers disabling damage that requires repair beyond \$1000.00. (disabling damage is damage that prevents the vehicles from leaving the scene in its usual manner, in daylight, after simple repairs.)

- An individual requires immediate medical treatment away from the scene.
- b. Post accident testing will be conducted in accordance with *DOT 49 CFR, Part 382.303 Regulations (FMCSA)*, if:
- There is a fatality.
 - The City driver/operator is issued a citation within eight (8) to thirty-two (32) hours of the occurrence due to a violation arising from the accident, tests will be performed if:
 - An individual requires immediate medical treatment away from the scene.
 - One (1) or more of the vehicles suffer disabling damage that requires repair of over \$1000 (disabling damage is damage that prevents the vehicles from leaving the scene in its usual manner, in daylight, after simple repairs.)

c. Time Limits

- 1) DOT Alcohol Post Accident Time Limits - Test should be performed as soon as possible, but no later than eight (8) hours following the accident. Post accident testing is stayed while the employee assists in the resolution of the accident or receives medical attention following the accident. If alcohol testing cannot be performed within two (2) hours, the reason for delay must be documented and efforts must continue to administer the test. If alcohol testing cannot be performed within eight (8) hours, all attempts should cease and documented as to the reason for the test failure.
- 2) DOT Drug Post Accident Time Limits - Test should be performed as soon as possible but no later than thirty-two (32) hours following the accident. Post accident testing is stayed while the employee assists in resolution of the accident or receives medical attention following the accident. If the drug testing cannot be performed within the required time, all attempts should cease and documented as to the reason for the test failure.

5. Return to Work

- a. If an employee is on leave for 90 days or more, they are required to have a pre-employment test completed and passed prior to returning to duty.
- b. Applicants who were tested more than 90 days prior to performing safety sensitive duties must have a new pre-employment test performed and passed before performing safety sensitive duties.

D. Test Results - All drug test results will be reviewed and interpreted by a Medical Review Officer (MRO) before they are reported to the City. When a positive result is received, the MRO will contact the employee and conduct an interview to determine if there is an alternative medical explanation for the drug(s) found in their urine specimen. If the employee provides appropriate documentation and the MRO determines there is a legitimate medical use of the prohibited drug(s), the test will be reported to the City as negative.

Test results will be classified as Negative, Positive or Test Refusal:

- Negative. A verified negative result is acceptable for drug testing. For alcohol, a verified test result below 0.04 is acceptable per DOT regulations.
- Positive. The following test results will constitute a positive result:
 - Verified positive result.
 - Verified BAC (Breath Alcohol Content) >0.04.
- Test Refusal. Test refusals are considered **positive** tests results.

An employee is considered to have refused to take an alcohol/drug test if:

- They fail to appear for a test within a reasonable time, as defined by the employer.
- They fail to remain at the testing site until the testing process is complete.
- They refuse or fail to provide a breath or urine specimen as required.
- They fail to permit an observed specimen collection when required.
- They fail to provide sufficient amount of volume with no valid medical explanation.
- They fail or decline to take an additional drug/alcohol test as directed by the employer or collector.
- They fail to undergo a medical exam or evaluation when required.
- They fail to cooperate with any part of the testing process (i.e. refusal to empty pockets, wash hands, remove hat, are confrontational).
- MRO verification of a test as adulterated or substituted.
- They refuse to sign Step 2 of the Alcohol Test Form (ATF).
- They leave the scene of an accident without just cause prior to submitting to a test.

Although there are no consequences under DOT regulations for a DOT regulated employee to refuse a non-DOT test, such a refusal may warrant termination of employment under the City's general Drug and Alcohol policy.

E. Notification of Test Results. The City will notify applicants of verified positive test results in writing. The City will notify an employee of the results of random, reasonable suspicion, and post-accident drug tests if the results are verified positive, and also which controlled substance(s) are verified positive. The City will also make reasonable efforts to notify any employee who tested positive but is unreachable by the MRO. They will be notified to contact the MRO within 72 hours.

F. Retesting- the following outcomes will result in retesting:

Test Result	Outcome
Negative Dilute (creatinine level is => 5 mg/dl)	Retest will be done unobserved
Negative Dilute (creatinine level is between 2-5 mg/dl)	Retest will be done under direct observation
Fatal Flaw / rejected	Retest will be done under direct observation
Invalid result (without medical explanation)	Retest will be done under direct observation
Primary is positive adulterated/ substituted and split is unavailable or invalid	Retest will be done under direct observation
Primary is positive and split test fails to reconfirm	Test is considered Cancelled

Primary is adulterated/ substituted and split fails to confirm adulteration/ substitution	Test is considered cancelled
Primary is positive and split fails to confirm but is adulterated	Test primary for adulteration

F. Consequences - Employees who are found to be positive of drug/alcohol substance will be immediately removed from performing safety sensitive functions.

1. An employee who is tested and has an alcohol concentration of 0.02 to 0.039 will not be permitted to perform safety sensitive functions for a minimum of twenty-four (24) hours and will be disciplined under City Policy. If a tested employee has an alcohol concentration of 0.04 or greater, they will be terminated and receive referral to a Substance Abuse Professional (SAP).
2. Employees and applicants with positive results will be terminated from employment provided with information regarding SAPs.
3. An employee's refusal to submit to random testing when notified, or failure to report to the lab within one (1) hour, will be considered a test refusal. All test refusals (under DOT regulations) are considered positives and will be terminated from employment under City Policy.
4. An employee's refusal to submit to reasonable suspicion testing will be considered a test refusal. All test refusals (under DOT regulations) are considered positives and the employee will be terminated from employment under City Policy. The date the test refusal occurs will be the final work day of the employee and they will not be eligible for discretionary benefits.
5. Applicants who refuse to test or who yield a positive test result, will not be considered for employment.

G. Prescription and Over the Counter (OTC) medications - Some prescriptions and OTC medications may adversely affect an employee's ability to perform their job safely. Employees are responsible for discussing their job duties with their physician, expressly if they are a DOT regulated employee. For more guidelines on OTC medications, please refer to the City Drug and Alcohol Policy. An employee shall not report for duty requiring the performance of safety - sensitive functions if they use any controlled substance except when the use is pursuant to the instructions of a licensed medical practitioner who has

advised the employee that the substance will not adversely affect the employee's ability to safely operate a commercial motor vehicle.

- H. Employee Admission of Drug/Alcohol Use - An employee who admits to alcohol misuse or drug use must do so in accordance with the City's Drug and Alcohol policy, provided the employee may not self identify in order to avoid the testing requirements of this DOT Policy. The employee must make the admission prior to performing a safety sensitive function (prior to reporting to duty). After admission the employee may not perform a safety sensitive function until the City is satisfied that the employee has been evaluated and has successfully completed educational and treatment requirements. A drug and alcohol abuse evaluation expert, i.e. an EAP professional, SAP, or qualified drug and alcohol counselor will determine successful completion. Prior to the employee performing safety-sensitive functions, the employee must undergo a return to duty alcohol test with a result of less than 0.02 and/or a return to duty drug test with a negative test result.
- I. Confidentiality - All information relating to alcohol or drug testing will be protected by the City as confidential unless otherwise required by law or authorized in writing by the employee. All results will be maintained in a confidential file within the Human Resources Department.
1. Records will be released to subsequent employers with a written request from the covered employee. Without the employee's written consent, records must be released only to those who are authorized under DOT rules.
 2. City employees who make a reasonable suspicion observation or who witness an accident must also maintain confidentiality. Breach of confidentiality relating to test results, or any other related matters, will likely result in disciplinary action, up to and including termination of employment.
- J. Records Retention - The City will maintain records under this policy as mandated by DOT regulations.
- K. Education and Training - Per DOT regulations, DOT regulated employees will receive a minimum of 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and work environment, and the signs and symptoms that may indicate prohibited drug use.
- DOT Supervisors and/or employees authorized by the employer to make reasonable suspicion determinations will receive a minimum of 60 minutes of training on the physical, behavioral and performance indicators of probable drug use and 60 minutes of training on the physical and behavioral, speech, and performance indicators of probable alcohol misuse. Supervisors must also be trained in the proper procedures for confronting and referring the employee for testing.
- This training will be conducted/coordinated by Human Resources.
- L. Contact - Questions regarding this policy should be directed to the HR Generalist at 281-652-1617 or the HR Director at 281-652-1656.