

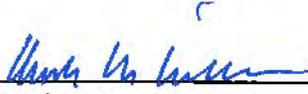
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**CITY OF FOREST ACRES**

**Substance Abuse and Drug Testing Policy**

**CONTENTS**

- I. Policy
- II. Applicants for Employment
- III. Current Employees
- IV. Testing Procedure
- V. Notice to Employees
- VI. Notice To Employer, State and Federal Grantor / Contracting Agencies and Law Enforcement Authorities
- VII. Consequences of Violating This Policy
- VIII. Coming Forward with Substance Abuse Problems
- IX. Confidentiality
- X. Testing Costs
- XI. Notification of Results
- XII. Employee Assistance Program / Drug Free Awareness
- XIII. Appendix A

Approval:   
City Administrator

Date: 2/10/15

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## **Substance Abuse and Drug Testing Policy**

### **I. General Policy**

It is well-recognized that substance abuse has a harmful effect on public health and safety, on the welfare of employees, on morale, and on productivity. Furthermore, it is the policy of the City to comply with the Drug Free Workplace Act, to comply with other applicable federal regulations, to establish and maintain alcohol and drug-free workplaces, and to prohibit the unauthorized or unlawful manufacture, distribution, dispensation, possession, and the use of controlled substances on or off the job.

Effective immediately, all employees of the City are prohibited from swallowing, inhaling, injecting, dealing in, or otherwise using illegal drugs and substances (such as marijuana, cocaine, LSD, heroin, etc.). Further, this prohibition applies to the misuse, abuse, or any unlawful use or possession of otherwise legal drugs. This prohibition applies to use at any time, both on the job and off the job. City employees are, of course, permitted to possess any substance when required by their jobs or for the purpose of lawful delivery to another person. These prohibitions also apply to leased employees and contractors employed by the City or working on City property or rights of way. An employee taking prescribed medication which might affect his ability to perform his job is required to advise his supervisor. The City will determine whether the employee may continue to work. Employees may be required to submit to a drug screen as provided by this policy.

Effective immediately, all employees of the City are prohibited from reporting to work, using or being under the influence of alcohol on City premises or time. **An employee is considered to be "under the influence of alcohol" if he or she has any detectable amount of alcohol in his or her system.**

Employees are also prohibited from possessing opened containers of alcohol on City premises or at City work sites. (The term "City premises or time" includes but is not limited to: City vehicles and private vehicles on City premises; parking lots and recreation areas; and any circumstances in which an employee is representing the City, such as attending off-premises business meetings or conferences (except that the City Administrator may approve moderate alcohol use at designated social or business functions.) Employees are not prohibited from having unopened containers of alcoholic beverages in their personal vehicles while on duty.

### **II. Applicants for Employment**

Applicants tentatively selected for employment positions must undergo a pre-employment drug test. The City does not hire applicants tentatively selected for employment who refuse to submit to a drug test or who test positive for use of illegal or unauthorized substances. An applicant who is rejected under this policy may be considered for future vacancies if he can demonstrate that he is no longer a user of any

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such substances. For example, the applicant may successfully complete a drug abuse treatment program and pass a more thorough drug test conducted at the applicant's expense. (This may include participation in and successful completion of a rehabilitation program as well as a negative drug test result on a more thorough drug test.)

**III. Current Employees**

A. All City employees are subject to drug testing by urinalysis or any other means deemed appropriate by the City where "particularized suspicion" of drug use in violation of this policy exists or under other lawful conditions.

1. Particularized suspicion is deemed to exist when:

- a. Information that an employee has used drugs or substances in violation of this policy is provided by a reliable informant;
- b. An accident occurs: "accident" is defined as:
  - i. An accident involving a fatality
  - ii. An accident causing personal injury; or
  - iii. An accident involving property damage

*(NOTE: DOT regulated employees are subject to special rules for post-accident testing and will be tested following an accident in accordance with DOT regulations.)*

- c. An employee exhibits any of the following:
  - i. Extreme mood swings;
  - ii. Slurred speech;
  - iii. Unusual clumsiness;
  - iv. Staggering;
  - v. Dilation of pupils;
  - vi. Sleeping on the job or lethargy;
  - vii. Excessive unexplained sweating;
  - viii. Other aberrational behavior; or
  - ix. An employee has been arrested for violation of drug laws

B. All City employees are subject to alcohol testing where "particularized suspicion" of alcohol use in violation of this policy exists.

1. Particularized suspicion is deemed to exist when:

- a. Information that an employee has used or possessed alcohol in violation of this policy is provided by a reliable informant;
- b. A serious accident occurs due to the apparent fault of an employee. "Accident" is defined in the same manner as it is in section (III)A of this policy.
- c. An employee exhibits behavior consistent with alcohol use such as but not limited to:
  - i. Erratic behavior (mood swings, slurred speech, staggering, bloodshot eyes, sleeping on the job or lethargy, excessive unexplained sweating, etc.);
  - ii. The apparent odor of an alcoholic beverage on an employee's breath;

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- iii. Other aberrational behavior such as but not limited to excessive absenteeism or tardiness, significant deterioration in job performance, repeated errors or rules violations, etc.
    - d. An employee has admitted violating the City's alcohol policy;
    - e. An employee is arrested for or convicted of an alcohol related offense;
    - f. An employee has tested positive for alcohol in violation of this policy within the past five years.
- C. Particularized suspicion testing is conducted upon the approval of the City Administrator or his designee.
- D. All sworn police officers, employees who are required by their jobs to possess a Commercial Driver's License or employees whose jobs the City regards as 'safety-sensitive' are subject to random testing to determine compliance with this policy. A list of safety sensitive positions is attached as Appendix A. Random selection testing is unannounced.
- E. This section intentionally left blank
- F. Employees who refuse to submit to an alcohol or drug test when ordered to do so or who adulterate or substitute test samples are in violation of this policy and subject to disciplinary action, up to and including discharge. Refusal to test includes failure to appear for a test, failure to remain until testing is complete, failure to provide an adequate amount of saliva or breath, failure to undergo a medical examination to evaluate your ability to provide an adequate breath specimen, or failure to sign a required certification form.

#### **IV. Testing Procedure**

- A. Drug Testing
  1. Drug testing will be by urinalysis or any other method deemed reasonable by the City.
  2. The collection of urine samples is performed under reasonable and sanitary conditions.
  3. Urine is normally collected under conditions of semi-privacy – that is, a person of the same gender will be in a position to observe obvious attempts to substitute or adulterate a urine sample. Collection of the urine sample may be directly observed by a person of the same gender, however, where to person supervising the collection believes an employee has tampered with an earlier urine sample or the employee has previously admitted or been proven to have used drugs in violation of this rule.
  4. Urine samples are sealed, labeled, and documented in accordance with the procedure of the drug testing collector or laboratory. Tests performed pursuant to DOT regulations will follow the procedures required by those regulations. Labeling, storage, and transportation of samples are performed

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so as reasonable to preclude the probability of erroneous identification, sample contamination, or sample adulteration.

5. Specimens are checked for at least the following six drugs:
  - a. Marijuana
  - b. Cocaine
  - c. Opiates
  - d. Amphetamines
  - e. Phencyclidine
  - f. Barbiturates

(Note: tests performed pursuant to DOT regulations check for only those substances mandated by the DOT regulations.)

6. Applicants and employees are provided an opportunity to provide any information which they consider relevant to the test, including identification of currently used prescription or nonprescription drugs, or other relevant information.
7. Samples which initially result in a positive finding for drug use are re-tested by the gas chromatography/mass spectrometry (GCMS) or an equivalent method. If the confirmatory test results in a positive finding of drug use, and is verified by the Medical Review Officer, the written report of the Medical Review Officer is conclusive for all employment-related purposes.
8. The City's Medical Review Officer normally allows an employee whose drug test results have been confirmed as positive the opportunity to justify the result before the Medical Review Officer notifies the City.

**B. Alcohol Testing**

1. A non-evidential screening device may be utilized to initially determine compliance with this policy. If the screening device indicates the presence of alcohol, or if the results of the screening device are deemed questionable by the City, then a confirmatory test is conducted utilizing an EBT (Evidential Breath Testing) device or blood test. The City uses only DOT approved non-evidential screening devices and DOT approved evidential breath testing (EBT) devices for DOT-mandated alcohol testing. The City reserves the right to utilize blood testing for non-DOT alcohol tests.
2. Employees will have an opportunity to provide any information which they consider to be relevant to the test.
3. The EBT confirmatory test is conducted by an individual properly certified to use the equipment. (In situations involved DOT regulated employees, the EBT operator should be property certified in accordance with applicable DOT regulations.)
4. A confirmatory test result generated through the use of an EBT or blood test which indicates a presence of alcohol in violation of this policy is conclusive for purposes of this policy.

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**V. Notice to Employees**

The City attempts to distribute to all employees a copy of this policy. Additional copies of this policy are available upon request. By continuing to work, the employee agrees to abide by the policy as a condition of employment.

**VI. Notice to Employer, State and Federal Grantor / Contracting Agencies and Law Enforcement Authorities**

- A. As a condition of employment, employees agree to notify the City within five calendar days after any criminal conviction for the workplace manufacture, distribution, dispensation, possession, or use of illegal drugs and prescription drugs not prescribed for the individual employee's use. The City will notify all state and federal grantors/contracting agencies of such employee convictions as required by state and federal Drug Free Workplace Acts. "Conviction" means a finding of guilt, imposition of a sentence, a plea of no contest, or a please of guilty.
- B. The City will notify law enforcement authorities whenever illegal drugs are found in the workplace.

**VII. Consequences of Violating This Policy**

- A. Employees who violate this policy are subject to immediate termination of employment.
- B. The City, in lieu of terminating an employee, may condition the continued or future employment of an employee who tests positive for or admits to the use of illegal drugs, upon successful completion of an alcohol or drug counseling/rehabilitation program.
- C. After considering all of the relevant circumstances, if the City agrees to allow an employee who is found to be in violation of this policy to continue as an employee, the employee's continued employment will be subject to the following:
  - 1. Referral of the employee for alcohol or drug abuse counseling;
  - 2. Retesting the employee for alcohol or controlled substances before allowing the employee to return to duty;
  - 3. Requiring the employee to authorize any rehabilitation facility to report periodically to the City during the course of treatment/counseling;
  - 4. Placing the employee on probation for at least six months following the employee's return to duty; and
  - 5. Requiring the employee to submit to unannounced follow-up alcohol and/or drug testing for a period of up to five years.
- D. An employee whose continued or future employment is conditioned upon the successful completion of a counseling or rehabilitation program and who refuses or fails to participate in a single counseling or treatment session is in violation of this policy and subject to immediate termination.

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- E. An employee whose return to duty test sample does not indicate that the employee has discontinued illegal use of drugs or indicates that the employee is in violation of this policy is subject to immediate termination.

**VIII. Coming Forward With Substance Abuse Problems**

- A. Employees, other than sworn law enforcement officers, who have substance abuse problems and report them to the City before being selected for testing, and before the occurrence of an event which normally would result in testing, in the City's sole discretion may be subject to VII(C) of this policy in lieu of termination.
- B. An employee who admits to a violation of this policy or tests positive for drugs in violation of this policy, but seeks counseling and remains an employee of the City, is subject to immediate termination if he again either admits to, or is otherwise found to be in violation of this policy

**IX. Confidentiality**

Any alcohol or drug test results or information supplied by employees and applicants as part of the City's alcohol and drug testing program are kept as confidential as possible, consistent with the purposes of this policy.

**X. Testing Costs**

The City is responsible for the costs of all drug tests to which the City requires an employee to submit. However, an employee subject to unannounced follow-up testing pursuant to Part VII(C) is solely responsible for the cost of all follow-up tests.

**XI. Notification of Test Results**

- A. Applicants are notified of the results of a pre-employment drug test, provided the applicant requests the results within 60 days of being notified of the disposition of the employment application.
- B. Employees are notified of the results (including the drug(s) discovered) of all positive drug tests.

**XII. Employee Assistance Program / Drug Free Awareness**

The use of illegal drugs and similar substances is a serious threat to our nation's collective health, safety and welfare. Drug and alcohol abuse in the workplace is dangerous because it leads to physical impairment, loss of judgment, safety violations, and the risk of injury and death. In order to prevent these consequences of drug abuse, the City has implemented this policy. Employees who feel they have a problem with controlled substances should seek assistance.

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For information on where to obtain treatment or assistance for drug or alcohol problems, one of the best places to look is in your phone book's Yellow Pages under "Drug Abuse & Addiction Information & Treatment Centers" or "Alcoholism Information & Treatment Centers." Under these headings, there is often a listing for a local "Council on Alcohol and Drug Abuse." These organizations are most helpful, as are Alcoholics Anonymous (AA) and Narcotics Anonymous (NA), in identifying sources for treatment and assistance. Set forth below is a list of organizations that may provide information or referrals.

1. National Clearinghouse on Alcohol and Drug Information – 1-800-729-6686
2. National Council on Alcoholism – 1-800-622-2255
3. Lexington/Richland Alcohol and Drug Abuse Council 803-256-3100

Periodically, the City may make available to employees information regarding substance abuse. All employees are encouraged to attend such programs and to review any material supplied. Some employees may be required to attend such programs or to review such material.

### **XIII. Appendix A**

#### **SAFETY-SENSITIVE POSITIONS SUBJECT TO RANDOM TESTING**

- Individuals whose position requires them to hold a commercial driver's license (CDL)
- Sworn law enforcement officers
- Police communication specialists (dispatchers)
- Employees operating mechanized heavy equipment