

<b>CITY OF MOBILE</b>	<b>SUBSTANCE ABUSE IN THE WORKPLACE</b>	<b>POLICY #: HR-001.5-95 Effective Date: 5/14/2001</b>
<b>Human Resources Policy</b>	<b>Page 1 of 9</b>	<b>Supersedes HR-001.4-95 Dated 10/27/1997</b>

## **I. PURPOSE, SCOPE AND APPLICATION**

The City of Mobile is concerned about the effects of the abuse of drugs and alcohol upon the health and safety of its employees. The City recognizes that substance abuse, on or off duty, leads to increased accidents, injuries, illnesses and medical claims and can lead to the deterioration of employees' health and adversely affect their family lives. Employees who abuse drugs and/or alcohol are not only a danger to themselves, but to their fellow employees and the public as well. Medical costs incurred by employees with substance abuse problems place an unacceptable financial burden on health and benefits programs to the detriment of the public and other employees. Decreased productivity and employee morale, and increased absenteeism and turnover can adversely affect the City's ability to serve the public.

The City's goal is to maintain a safe, healthy and productive workplace and a workforce free of substance abuse. The City has a program of drug and alcohol testing, voluntary referral for counseling and rehabilitation, education and appropriate discipline for violations.

No part of this policy and program, or any of the procedures hereunder, is intended to affect the City's right to manage the workplace or to discipline employees. This policy and program does not constitute a contract or guarantee of employment or of continued employment or of any terms or conditions of employment. The City reserves the right to interpret, change, modify, amend or rescind this policy and program, in whole or in part at any time, with or without notice. Appropriate notice of the same will be given when practical, in advance, when possible.

This policy and program cover all City employees, including salaried, hourly, exempt, non-exempt, regular, part-time, seasonal, casual or temporary employees on the City's payroll. This policy supplements, but does not replace, the *Laws and Rules of the Mobile County Personnel Board*.

### **A. Definitions**

The following words shall be defined as follows in this Policy:

1. **"Adulterant"** - Any chemical or drug that alters the result of drug or alcohol testing, including, but not limited to, concentrated or packaged urine or substances added to any urine sample or ingested with the intent to mask or alter test results.
2. **"City" and "Municipality"** - City of Mobile, Alabama.

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3. **"Designated Employer Representative"** - Each individual identified by the City of Mobile to receive communications and test results directly from the service agents, to include the Medical Review Officer, and who is authorized to take immediate action to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes.
4. **"Reasonable Suspicion"** - A good faith belief based on specific objective facts and reasonable inferences drawn from those facts.
5. **"Service Agent"** - Any person or entity other than a City employee who provides services to conduct drug or alcohol testing to include collection, testing, and laboratory, Medical Review Officer and Employee Assistance Program services.
6. **"Substances To Be Tested"** - When drug or alcohol screening is required under the provisions of this policy, a urine drug screen or hair test, or a saliva, breath or blood alcohol test will be given to detect the presence of any and all suspected substances of abuse. The selection of substances to be tested will be regularly reviewed based upon known abuse in the community and the ability of each substance to affect job performance.
7. **"Under The Influence"** - An individual who has the presence of a drug or alcohol in his/her body at or above the level for a positive test result, as established by the U.S. Department of Transportation regulations.

## II. PROHIBITED CONDUCT

The following conduct is prohibited for all employees:

- A. Use of illegal or unauthorized drugs (including excessive quantities of prescription or over-the-counter drugs) and any other chemical substances, including alcohol, which may affect an employee's mood, senses, responses or motor functions, or which may alter or affect a person's perception, performance, judgment, reactions or senses, or which may present a threat of harm to anyone while working or otherwise on City business.
- B. Working or reporting to work with the presence of detectable amounts of illegal or unauthorized drugs in your body, or in possession of illegal drugs.
- C. Working or reporting to work under the influence of alcohol, or in possession of alcohol.

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- D.** Use of prescription or over-the-counter drugs which may adversely influence performance or behavior or present a threat of harm to anyone when taken in prescribed quantities, except when both of the following conditions are met:
1. When the employee has informed his/her supervisor(s) prior to working under the influence of or using such drugs or medication on the job, and the employee's physician or Medical Review Officer has indicated that the employee may work under the influence of such drugs or medication; and
  2. When the prescription or over-the counter drugs are in their original vials or packaging. Prescription drug vials or packaging must be labeled with the employee's name, physician's name, prescription number, and date of issuance which should be within one (1) year from the then current date.
- E.** Possession of illegal drugs or drug-related paraphernalia, including adulterants or products used for defrauding or masking drug test results, or any material or equipment used or designed for use in manufacturing, compounding, converting, processing, preparing, testing, packaging, storing, injecting, ingesting, inhaling or otherwise introduction into the human body any illegal or unauthorized drugs covered by this policy.

### **III. DRUG AND ALCOHOL TESTING**

To detect violations of this important policy, the City of Mobile will presume that, by accepting or continuing employment, an employee agrees to abide by all aspects of the policy, including testing designed to detect the use of illegal or unauthorized drugs and alcohol. All testing is done in accordance with federal standards and guidelines. Submittal of an adulterated sample or refusal by an employee to submit to testing will be considered the same as a positive result. A positive result will result in disciplinary action, up to and including termination of employment, in accordance with the *Laws and Rules of the Mobile County Personnel Board*.

#### **A. Pre-Employment Testing**

All applicants selected for employment with the City of Mobile are to be tested for drug use. No applicant shall be permitted to begin work until negative results have been obtained. Applicants who refuse to be tested or produce a positive result will not be hired. Any job applicant who refuses to undergo a test, or who tests positive for drugs or alcohol (unless currently prescribed for valid medical reasons by a licensed physician or licensed health care provider who is familiar with the applicant's medical history and contemplated duties) shall not be permitted to occupy or hold a position with the City.

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**B. Random Testing**

All employees who are required to possess an Alabama Commercial Driver License (CDL) will be randomly tested throughout the year. This is a requirement of 49 CFR Part 382, Controlled Substances and Alcohol Use and Testing.

All certified officers and employees in safety sensitive jobs in the Mobile Fire-Rescue and Police Departments will be randomly tested throughout the year. This is due to the safety sensitive nature of their jobs and is in the best interest of our community. Employees in other safety or security sensitive jobs, to include driving City-owned vehicles or operating heavy equipment which does not require a CDL, will also be subject to random testing.

Department heads will determine which employees in their departments meet the requirements for random testing. The master list of City of Mobile employees subject to random testing will be maintained by the Designated Employer Representative (DER), who shall be a City employee designated by the Director of Human Resources. The Safety Manager shall normally fill this position. Department heads will submit to the DER the names of employees to be added or deleted from the substance testing list as changes occur (i.e., new hires, transferred or terminated employees). All department heads shall review and verify their list at least annually, or more often at the request of the DER.

Tests may be given without advance notice, weekly, monthly or quarterly. Selections are done by a computer generated list and are done without bias or prejudice.

**C. Post Accident Testing**

In the event of an accident, with or without injuries, employees who are directly involved may be required to undergo drug and alcohol testing. If determined necessary by supervision, tests should be conducted as soon as possible, but preferably not later than four (4) hours after the accident. In no way shall the immediate medical treatment of injured employees be jeopardized by the post accident testing procedure. Post accident testing is to be accomplished when the employee's conduct or performance contributed to the accident or when based on the following criteria:

1. Post Accident Vehicular - Testing is to be accomplished for any and all reportable vehicular accidents. If the incident is minor (less than \$500 in damage to the vehicle based on a good faith estimate by the supervisor and no injuries), supervisory discretion is authorized.

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2. Post Accident Injuries - Testing is to be accomplished for reportable accidents resulting in an injury that requires medical treatment other than first aid. If the injury is minor and there is no possibility the accident may lead to a worker's compensation claim, supervisor discretion is authorized.
3. Post Accident Property Damage - At the supervisor's discretion, testing is to be accomplished any time an employee has an accident that results in at least \$500 of property damage, as determined by a good faith estimate by the supervisor.

**D. Reasonable Suspicion Testing**

All employees of the City of Mobile must submit to a drug and/or alcohol test if, in the opinion of City management, reasonable suspicion exists that an employee is under the influence of alcohol, illegal drugs or unauthorized drugs. Reasonable suspicion can arise out of any number of circumstances including, but not limited to, irrational behavior or speech, odor of alcohol, rules violations, and an unsatisfactory time and attendance record. Management will consult with the City Legal and Human Resources Departments prior to arranging such tests.

**E. Return to Work Testing**

Employees who return to work after an extended leave of absence of three (3) months or longer may be required to undergo drug and alcohol testing prior to their return to work. This will be determined by the Director of Human Resources.

**F. Rehabilitation Follow-up Testing**

All City of Mobile employees who have successfully completed a course of substance abuse rehabilitation and have returned to work are subject to follow-up drug and/or alcohol testing. Such follow-up tests may occur for as long as two (2) years and will be scheduled by the Human Resources Department.

**IV. TRAINING**

**A. Manager Training**

The City shall develop a training program to assist management in identifying substance abuse among employees. Such training will be directed towards helping management to recognize the conduct and behavior giving rise to a reasonable suspicion of substance

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abuse, to identify employees who need counseling and employee assistance programs, and to be aware of those employees who pose an immediate safety threat.

**B. Prior Notice of Testing Policy**

The City of Mobile shall take appropriate steps to apprise all employees of this policy and the need for a drug and alcohol-free workplace. This policy shall be reviewed during new employee orientation and shall be included in the *Employee Manual* maintained in each City department. The following information shall be communicated to employees:

1. the need for drug and alcohol testing;
2. the circumstances under which testing may be required;
3. the procedure for confirming an initial positive drug test result;
4. the consequences of a confirmed positive test result;
5. the consequences of refusing to undergo a drug and/or alcohol test;
6. the consequences of adulterating a sample or submitting an adulterated sample;
7. the right to explain a positive test result and the appeal procedures available; and
8. the availability of substance abuse counseling and referral services.

**V. CONSENT**

When a drug test is administered, the employee will be asked to sign a form to certify that the specimen identified on the form is the employee's specimen that he/she is presenting to the collector. By signing the form, the employee is also verifying that he/she witnessed the sealing of the specimen container for chain of custody purposes. When an alcohol test is administered, the employee will be asked to sign a form to certify that he/she is about to submit to alcohol testing and that the identifying information provided on the form is true and correct. Another purpose of these forms is to consent to the test and the release of test results to authorized individuals.

**VI. REFUSAL TO CONSENT**

If an employee who is required by the City to be tested refuses to consent to a drug or alcohol test or submits an adulterated or fraudulent sample, he/she is subject to disciplinary action, up to and including termination. Prior to any disciplinary action, employees in the classified service shall be entitled to a pre-disciplinary hearing in accordance with Rule 14.3 of the *Laws and Rules of the Mobile County Personnel Board*. The employee's reason for refusing such test shall be considered in the pre-disciplinary hearing. In certain circumstances, employees may be

suspended without a disciplinary hearing (see Rule 14.3 [b] of the *Laws and Rules of the Mobile County Personnel Board*).

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## **VII. INVESTIGATIONS AND SEARCHES**

When, in the opinion of management, there is reason to believe that an employee is under the influence of intoxicants, drugs, narcotics, alcohol, or in possession of adulterants or paraphernalia for use of controlled substances, the City may request that the employee submit to a search by City representatives of his or her person and/or property, including lockers and vehicles brought onto City premises or job sites of the City. There should be no expectation of privacy in City-owned vehicles, offices, lockers, etc.

## **VIII. DISCIPLINE**

Disciplinary action, up to and including termination of employment, will be taken against any employee for violation of any of the following, but not limited to: (1) testing positive on a confirmed test; (2) refusing to submit to testing or to provide urine, hair, saliva, breath or blood specimens; (3) refusing to execute a release/consent form for testing; (4) adulterating or attempting to adulterate a specimen for testing, (5) failing to notify the City of the use of legitimate medication which may endanger safety; and (6) failing to cooperate with an investigation or search.

## **IX. TESTING**

### **A. Test Standards**

Testing will be conducted and evaluated according to standards set forth for the conduct and evaluation of such tests by the U.S. Department of Transportation in 49 CFR Part 40.

### **B. Specimen Collections**

Alcohol tests and specimen collection for drug tests will be taken on site, at the office of a service agent selected by the City, or any other location deemed appropriate and that meets the required standards. Specimen collection shall be conducted with due regard for the privacy of the tested individual and in a manner to prevent substitution, contamination, or adulteration of the specimen. All specimens for drug testing are sealed and transported to a laboratory certified by the U.S. Department of Health and Human Services (HHS) for testing.

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**C. Test Results**

The laboratory conducts an initial drug screen first. If the drug screen is negative, a negative result is reported. If the result is reported as unsuitable for testing or unable to test, an immediate and observed recollection may be required. If the initial drug screen is positive, a confirmation test on the same specimen is performed by a Gas Chromatograph/Mass Spectrometer (GC/MS). If the GC/MS does not confirm the results of the initial screen, a negative result is reported. If the initial result is confirmed, the test is reported to the Medical Review Officer as a positive test result.

**X. MEDICAL REVIEW OFFICER**

A physician certified as a Medical Review Officer (MRO) will serve as the City’s MRO. The MRO will be responsible for reviewing all drug test results. If a specimen was rejected for testing, the MRO will indicate "Test Cancelled." If the test is returned as invalid, the MRO will indicate "Test Cancelled-Invalid Results" and indicate if a "Direct Observation Collection" is required. Prior to making a final decision to verify a positive test result for an individual, the MRO shall give the individual an opportunity to discuss the test results with him/her. The employee may be asked to bring all medical records to a meeting/consultation with the MRO which might have bearing on the test result. No official test results will be released to the City until the MRO has deduced whether the medical evidence the employee has produced will influence changing the drug test result.

When a test result has been confirmed as positive, the MRO will give the employee the opportunity for the specimen to be retested at another HHS certified laboratory. The employee would then have 72 hours from the time of notification by the MRO to request a retest of the split specimen. The employee must make the request for this test directly to the MRO. The employee is required to reimburse the City of Mobile for any retest fees. The result of the retest is considered a final result as no further testing of the specimen or different specimens will be accepted.

**XI. ALABAMA WORKER’S COMPENSATION ACT WARNING**

No worker’s compensation shall be allowed for an injury or death caused by an accident due to the injured or deceased employee being intoxicated from the use of alcohol or being impaired by illegal drugs. No worker’s compensation shall be allowed an injured employee if the injured employee refused to submit to or cooperate with a blood or urine test conducted in accordance with the standards in 49 CFR Part 40. Such refusal will forfeit an injured employee’s right to recover worker’s compensation benefits.

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**XII. ALABAMA UNEMPLOYMENT COMPENSATION ACT WARNING**

An individual shall be disqualified for total and partial unemployment compensation as a consequence of the use of illegal drugs or alcohol following this warning, for submitting an adulterated specimen, or for refusing to submit to or cooperate with urine, hair, saliva, breath or blood tests following this warning. A confirmed positive test that is conducted and evaluated in accordance with the standards set forth in 49 CFR Part 40, or which are otherwise reliable, shall be a conclusive presumption of impairment by illegal or unauthorized drugs or alcohol and could result in dismissal.

**XIII. FIRE-RESCUE DEPARTMENT AND POLICE DEPARTMENT EXCEPTIONS**

Because of Public Safety concerns, the Mobile Fire-Rescue and Police Departments may have internal department guidelines which are more stringent than the general City policy.

**XIV. EMPLOYEE ASSISTANCE PROGRAM**

Employees with substance abuse problems are encouraged to seek help before their jobs are jeopardized. The City offers an Employee Assistance Program (EAP) to provide confidential short-term counseling and referral services to employees at no cost. The EAP has professional counselors who can discuss problems that can adversely affect job performance, conduct and reliability. The EAP can help employees deal with alcoholism or drug abuse problems as well as marital, family and emotional problems. EAP professionals can refer employees to other professional services and resources within the community for further information, assistance, or long-term counseling.

Voluntary participation in the Employee Assistance Program is encouraged. Prior to being selected for random, post accident or reasonable suspicion testing, employees who voluntarily identify themselves as drug and/or alcohol users and who obtain counseling and rehabilitation shall not be disciplined for drug and/or alcohol use; however, they must thereafter refrain from violating the City's policy on drug and alcohol use. Once identified for testing, employees cannot seek assistance to avoid disciplinary action if found in violation of this policy.

Recommended by:  Leslie Westerberg	Reviewed by:  Christopher L. Lee	Approved by:  Michael C. Dow
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