

ARTICLE II DRUG OR ALCOHOL USE

DIVISION 4. COLUMBIA POLICE DEPARTMENT

Section A. DEFINITIONS

As used in this Division, the listed terms shall have the following meaning:

“Alcohol.” The intoxicating agent in a beverage including alcohol, ethyl alcohol or other low molecular weight alcohols.

“Alcohol Use.” The consumption of a beverage, mixture, or preparation, including any medication, containing alcohol.

“Applicant.” Any individual selected through a direct hire process who is not currently in the City's employ and as a condition of employment must meet the applicable conditions of this policy prior to employment.

“City Premises.” Any and all property, facilities, land, structures, and vehicles owned, leased, used or under the control of the City.

“Collection Site.” A place designated by the City where employees present themselves for the purpose of providing a specimen of their urine or breath to be analyzed for the presence of drugs/alcohol.

“Command Staff.” Police Lieutenant, Assistant Police Chief, Police Chief and Assistant to the Police Chief.

“Drug.” Any non-food substance, other than alcohol or such over-the-counter pain relievers as aspirin or cold remedies, capable of altering the mood, perception, pain tolerance, sobriety or judgment of the person consuming it.

“EBT.” Evidential Breath Testing Device, a device approved by NHTSA (National Highway Transportation Safety Association) for the evidential testing of breath at the .02 percent and .04 percent alcohol concentrations, placed on NHTSA's Conforming Products List (CPL) for Evidential Breath Testing Devices and identified on the CPL as conforming with the model specifications available from NHTSA's Traffic Safety Program.

“5 Panel Drug Testing”:

- Marijuana (THC)
- Cocaine
- Amphetamines
 1. Amphetamine

2. Methamphetamine
 3. MDMA
 4. MDA
- Opioids
 1. Codeine
 2. Morphine
 3. 6-AM (heroin)
 4. Hydrocodone
 5. Hydromorphone
 6. Oxycodone
 7. Oxymorphone
 - Phencyclidine (PCP)

“Illegal/Unauthorized drug.” Any drug which is not legally obtainable, any drug which is legally obtainable but has been illegally obtained, and/or is not being used for its prescribed purpose or in the prescribed manner.

“Legal Drug.” Except for Medical Marijuana, any prescribed drug or over-the counter drug which has been legally obtained and is used for the purpose for which it was prescribed or manufactured.

“Medical Marijuana” means marijuana for medical use as authorized by the Missouri Department of Health and Senior Services and the distribution, possession and use of the marijuana are in compliance with all laws and regulations authorized by Article XIV of the Missouri Constitution, titled Medical Cannabis.

“Medical Review Officer” or “MRO.” A licensed physician responsible for receiving and reviewing laboratory results generated by this policy, who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate positive test results together with an employee's history and any other relevant biomedical information.

“Possession.” Actual or constructive care, custody, control or immediate access to.

“Reasonable Suspicion.” When a supervisor has reason to believe the appearance and/or conduct of an employee are indicative of the use of alcohol, drug(s) (including Medical Marijuana), or a combination thereof.

“Substance Abuse Professional” or “SAP.” Evaluates employees who have violated a drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up care and aftercare. Must be a licensed physician (M.D. or D.O.) or a licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist, or a drug and alcohol counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC) or certified by: the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC); or by the National

Board for Certified Counselors, Inc. and Affiliates/Master Addictions Counselor (NBCC) with knowledge of and clinical experience in the diagnosis and treatment of alcohol/substance abuse related disorders. Requires completion of qualification training and SAP certification per 49 CFR Part 40.

“Substance Abuse Counselor” or “SAC.” Evaluates employees who have violated the City of Columbia Drug and Alcohol Policy and this person makes recommendations concerning education, treatment, follow-up care and aftercare. The SAC is coordinated through EAP.

“Uniformed Officers” means all law enforcement officers required to obtain or possess a Missouri POST certification as part of his or her position.

“49 CFR Part 40.” Federal Procedures for Transportation workplace drug testing programs. These rules are available for review in the Human Resource Department.

Section B. IN GENERAL

1. Scope.

Except as provided herein, the Police Department Employee Drug and Alcohol Policy applies to all employees of the City of Columbia Police Department, including job applicants, probationary employees, permanent full and part-time and temporary full and part-time.

2. Purpose.

The purpose of this Drug and Alcohol policy is to ensure an alcohol and drug-free workplace, to reduce accidents and injuries, and to comply with all federal, state and local laws. The City of Columbia recognizes that the state of employees’ physical condition affects their job performance, their availability for work, their ability to perform certain types of work, and may affect their opportunities for continued employment or advancement. The City also recognizes that drug and alcohol abuse ranks as a major health problem which affects an individual’s physical condition and causes untold trauma and expense, not only to the employee but also ultimately to the City as an employer.

3. General Policy.

It shall be the general policy of the City to prohibit the possession, manufacture, sale, transference, use or ingestion of illegal/unauthorized drugs or Medical Marijuana, or the use or ingestion of alcohol, or the unauthorized possession, sale or transference of alcohol, on City premises, while operating City vehicles and equipment, while engaged in the performance of job duties or while otherwise representing the City of Columbia in any capacity and during off-site lunch periods or breaks when an employee is expected to return to work or on call for work. Nothing in this policy is intended to limit the

authority of officers to search for and seize contraband in accordance with policies and procedures of the Columbia Police Department.

4. Condition of Employment.

As a condition of employment, employees of the City of Columbia Police Department are expected to fully comply with this policy, to be free from the use of illegal drugs and to abstain from on-duty alcohol use.

5. Questions about the Policy.

Questions about this drug and alcohol policy may be directed to either the Human Resources Director at 817-6445, or the designated employer representative at 874-6392.

Section C. MEDICAL MARIJUANA

1. Purpose.

Missouri has laws allowing for the medical use of marijuana. The City, as an employer, is committed to providing a safe work environment and reducing accidents and injuries, to ensuring the safety and protections of the public served by the employees of the City, and to complying with all relevant federally mandated laws, including all Drug-Free Workplace requirements and federally mandated drug and alcohol testing for Regulated employees.

The use of marijuana, whether it is for recreational or medical purposes, has physiological effects that can include sedation, disorientation, impaired judgment, lack of concentration and slowed fine motor skills. The City recognizes that the impairing effect of such use while at work creates workplace performance and safety issues that the City wishes to avoid.

Furthermore, marijuana is a controlled substance under the federal Drug Abuse Prevention and Control Act. Its possession and use are prohibited in the workplace under federal Drug-Free Workplace regulations. The City relies on federal funding for many of its critical services and programs and failure to comply with the Drug-Free Workplace requirements could jeopardize that federal funding. It is the City's position and intent that this Medical Marijuana Policy shall meet or exceed all requirements of the federal Drug-Free Workplace laws, 41 USC §§ 8101, et. seq., as amended.

2. General Medical Marijuana Policy

It shall be the policy of the City of Columbia that all employees are strictly prohibited from possessing, using, ingesting or being under the influence of Medical Marijuana while on City premises, while operating City vehicles and equipment, while engaged in the performance of job duties or while otherwise representing the City of Columbia in

any capacity and during off-site lunch periods or breaks when an employee is expected to return to work or on call for work.

3. Additional Restrictions - Uniformed Officers

a. *Purpose.* The City has a compelling interest in ensuring its Uniformed Officers are both mentally and physically capable of performing the demanding public safety work that the position requires. These positions are first responders to emergency situations and are required to perform important public safety functions including the following: responding to calls for emergency assistance or crisis situations; performing in emergency medical and rescue incidents; capable of operating emergency vehicles and control them at high-rates of speed; carrying and using firearms; being on 24/7 emergency call-out; sound decision-making to protect life and property, public health or safety, or other functions requiring a high degree of public trust. It is the City's intent and position that employees in these positions are required to have the ability to work in a constant state of alertness and safe manner.

b. *Uniformed Officers Medical Marijuana Policy.* It shall be the policy of the City that all Uniformed Officers are prohibited from possessing, using, ingesting or being under the influence of Medical Marijuana at any time.

Section D. PROHIBITED CONDUCT

1. Drugs.

The manufacture, distribution, unlawful dispensing, use, possession or being under the influence of any illegal/ unauthorized drug, while on the City's premises or during working time or during a meal break when an employee is expected to return to work or on call for work is strictly prohibited; provided however that nothing in this policy is intended to limit the authority of officers to search for and seize contraband in accordance with policies and procedures of the Columbia Police Department.

An employee may use and possess a legal drug while on the City's premises or during working time, provided the employee uses the drug in accordance with a physician's or the package instructions, does not distribute the drug to another, and the employee has reported the use of any mood altering or judgment or performance impairing drug to Employee Wellness or his/her immediate supervisor before the beginning of his/her work shift. When an employee has reported the use of a legal drug, Employee Wellness shall notify the employee's supervisor of potential impairing effects. If an employee reports the use of a legal drug to his/her supervisor, the supervisor shall report this information to Employee Wellness. Employee Wellness staff will consult with the City physician on potential impairing effects and notify the supervisor of any potential impairing effects of the drug. It shall be the employee's responsibility to inquire of the prescribing physician or a pharmacist whether or not the prescribed or over-the-counter medication is mood altering or judgment or performance impairing. The City reserves the right to have a physician of its choice determine whether an employee can safely perform their job while

using or being under the influence of any legal drug so reported. In addition, the City reserves the right to restrict such employee's work activity or presence on the City premises. Applicable accumulated leave or leave without pay may be granted under applicable ordinance provisions.

2. Alcohol.

The use, possession or ingestion of alcohol during working hours, including lunch hours or while on City premises when associated with working hours, is strictly prohibited. However, the possession of alcoholic beverages by employees whose job assignment includes the buying, selling, distributing, dispensing or transferring the beverage is excluded, as is the use of alcohol containing solvent, cleaners and other chemicals for the purpose for which they were manufactured.

3. Impairment.

It is a violation of this policy for employees to report to work, or to enter onto the City premises while being in a condition impaired for work due to effects, symptoms or side effects of alcohol and/or drugs.

4. Submit to Drug/Alcohol Testing.

Failure of an employee to submit to any drug or alcohol testing required under this policy including, but not limited to, failure to report in a timely manner to a collection site, sign any required consent form or otherwise fully cooperate in the collection of any breath/urine specimen, is strictly prohibited. If any employee refuses to be tested, then the refusal shall be subject to disciplinary action up to and including termination.

5. Conviction Reporting.

As a condition of employment, all employees are required to notify the City of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after the conviction. The failure to report such conviction is a violation of this policy. Within thirty (30) days after receiving notice from an employee of a conviction under this provision, the City will take appropriate action against the employee, up to and including termination, or will require the employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for those purposes in accordance with federal Drug-Free Workplace requirements.

Section E. EMPLOYEE ASSISTANCE PROGRAM (EAP)

1. EAP Program.

City shall maintain a contract Employee Assistance Program (EAP) which will provide counseling or referral for drug and alcohol abuse. The City shall provide a list of available resources for drug/alcohol counseling if the employee chooses to seek

assistance outside the City's EAP. Applicable accumulated leave or leave without pay may be granted for treatment, counseling or rehabilitation under applicable ordinance provisions. It will be the employee's responsibility to comply with a City request for referral and diagnosis and to cooperate fully with any prescribed therapy.

Rehabilitation is the responsibility of the employee. In cases of mandatory referral to the EAP as part of a disciplinary disposition or in compliance with a federal rule, the City shall require the counseling agency to report to the City: (1) that the employee is attending the mandated counseling; (2) that the employee is arriving on-time to scheduled appointments and is cooperating with the counselor; (3) that the employee has completed counseling or therapy and is released by the counseling provider; and (4) if any medical leave is required.

2. Self-Help.

If, prior to any drug or alcohol testing or the occurrence of an event giving rise to a reasonable suspicion of current drug or alcohol use, an employee seeks help to refrain from drug or alcohol use, either by inquiry to the City or entering a counseling or rehabilitation program, then the City will assist the employee in locating and attending a suitable program and exercise care to maintain the confidentiality of the inquiry and program participation.

The employee shall not have his or her job security jeopardized solely because he or she has made a voluntary request for diagnosis and appropriate therapy for alcoholism or drug dependency. However, the City is concerned by those situations where use of alcohol or other drugs affects an employee's job performance, causes a potential safety problem or is detrimental to the City's business, and will take those actions that are required for the good of the City as a whole. For uniformed officers and certain other employees, such as those in a chain of custody, job performance includes the ability to testify in court as needed at any point in the future without the risk of disqualification or significant impeachment as a result of any prior action taken by the employee, including the use of drugs or alcohol. Self-referral to a treatment program may not be used as a protection from supervisory actions taken as a result of job performance deficiencies.

The City may also grant the employee an appropriate leave of absence (generally not to exceed twelve weeks) or other reasonable accommodation so the employee can undergo a mutually agreed upon rehabilitation program. To the extent permitted by law, any leave or other accommodation granted pursuant to this policy will, absent extenuating circumstances as determined by the City, be granted only once.

Section F. DRUG AND ALCOHOL TESTING

1. Types of Testing.

All employees under this policy shall be subject to the following drug or alcohol tests:

- a. *Circumstances under which Employees of the Columbia Police Department may be tested.* These include:
- (i) Upon reasonable suspicion of an employee being under the influence of drugs or alcohol;
 - (ii) Upon random selection;
 - (iii) Upon being involved in a crash in a department vehicle that results in:
 - (1) Death to a person; or
 - (2) Bodily injury to any person requiring immediate medical treatment away from the scene of the accident;
 - (iv) Upon a voluntary request by a Uniformed Officer, Crime Scene Investigator, Civilian Investigator, Property & Evidence Technician or Property & Evidence Unit Supervisor.

b. *Pre-Employment Testing.* The City will test job applicants for all permanent positions and temporary positions for the Police Department for current drug use prior to offering successful applicants City employment. A dilute negative is considered a negative result and a retest will not be needed unless directed by the MRO. An applicant with a verified positive test will be ineligible for hire for five years.

c. *Reasonable Suspicion Testing.*

(i) *Basis to determine reasonable suspicion.* When a Supervisor has reasonable suspicion that the employee is under the influence of alcohol or drugs (including Medical Marijuana), then the supervisor shall require the employee to undergo drug and/or alcohol testing. The supervisor determining reasonable suspicion shall not supervise or participate in testing procedures.

Reasonable suspicions shall be grounded upon specific, articulable observations concerning the appearance, behavior, motor skills, speech or body odors of the employee, or the physical inability of the employee to perform their job assignments, or a report of drug use is provided by a reliable and credible source that has been independently corroborated.

(ii) *Duty to report and conduct testing upon reasonable suspicion.*

(1) **Command Staff.** Any member of Command Staff that has a reasonable suspicion that another employee is using alcohol or controlled substances in violation of city policy shall immediately advise the employee of the basis for the reasonable suspicion and order the employee to submit to a drug test. If the suspect employee is of equal or greater rank than the reporting officer, the Chief or an uninvolved Assistant Chief shall be contacted.

(2) **Sergeants.** Any Sergeant who has a reasonable suspicion that another employee is using alcohol or controlled substances, the Sergeant will advise the employee of the basis for the reasonable suspicion and order the employee to submit to a drug test. As soon as possible after issuing an order

to submit to testing, the Sergeant shall report the facts and circumstances that form that basis for the suspicion to their immediate supervisor.

(3) Officers. Any officer who has reasonable suspicion that another employee is using alcohol, drugs, or controlled substances shall immediately report the facts and circumstances that form the reasonable suspicion to his/her supervisor, any Lieutenant or any member of the Command Staff. The supervisor/Lieutenant/member of Command Staff receiving that report will advise the employee of the basis for the reasonable suspicion and order the employee to submit to a drug test.

(iii) *Preparation of written report.* As soon as possible after issuing an order to submit to testing, the person ordering the employee to submit to the drug test shall prepare a written report using the form developed by the Human Resources Department and indicate the specific facts and reasons that form the basis for the reasonable suspicion that led to the order for testing. This report shall be forwarded to the Designated Employer Representative in the Human Resources Department and will be maintained in strict confidentiality until record shall be disposed of.

(iv) *Administrative leave.* Any employee who is tested based upon reasonable suspicion will be placed on Administrative Leave until such time that testing can be done and results are achieved.

d. *Random Drug Testing.*

(i) *Employees subject to testing.* The following employees are subject to random drug testing:

(1) All uniformed officers assigned to the City of Columbia Police Department.

(2) Non-sworn personnel whose responsibilities will cause them to come into contact with narcotics or controlled substances from time to time, including but not necessarily limited to personnel with access to the evidence room and those employees responsible for crime scene investigation. Classifications include: Crime Scene Investigator, Civilian Investigator (temporary position), Property & Evidence Technician and Property and Evidence Unit Supervisor.

(ii) *Selection of employees for testing.* The selection of personnel for random testing is accomplished by the testing center using a computer based number generator which matches an employee's identification number ensuring employees subject to random testing shall have an equal chance of being selected each time the selections are made.

(iii) *Frequency, timing and number of employees to be tested.* Random testing is unannounced and spread through the year, with a minimum of four test events per year. Employees may be required to submit to testing at the beginning, end or during work shift. Notification may be made by any person designated by the Chief of Police.

(iv) *Procedure when selected for testing.* When an employee is notified of being selected for a test, the employee must proceed immediately to the test site. The time of notification shall be recorded by the person providing the notification. The time of arrival at the test center will be noted by the test center. If necessary, the police department will provide transportation to and from the testing location.

(v) *Testing outside scheduled work hours.* If a selected employee cannot complete testing prior to the end of scheduled work time, the time beyond scheduled work hours needed to complete testing will be counted as work hours.

e. *Testing Following an Accident.* An employee will be tested upon being involved in a crash in a department vehicle that results in:

(i) Death to a person; or

(ii) Bodily injury to a person involving immediate medical treatment away from the scene of the accident.

The shift supervisor will either transport or arrange for the transportation of the employee to the test facility or, if the employee is transported to a medical facility, the City may require a breath or urine specimen collection at the medical facility. Nothing in this section limits the authority of law enforcement authorities to gather evidence in accordance with applicable law or the policies of the Columbia Police Department. No employee required to take a post-crash alcohol test under these regulations shall use alcohol for eight hours following the crash or until completing a post-crash alcohol test.

f. *Return to Duty Testing.* Return to Duty testing must occur after an employee has failed a drug and/or alcohol test, or refused to be tested. The employee must have successfully completed the required education and/or rehabilitation program before a return to duty test may be given. The employee must test negative for drugs and/or below .02 percent breath alcohol concentration before resuming job duties.

g. *Follow-up Testing.* Whenever an employee has sought self-help under this policy or has been mandatorily referred to a drug and/or alcohol rehabilitation program and has completed the program, the City's Medical Advisor, SAP or SAC may require the employee to participate in follow-up drug and/or alcohol testing. The extent and duration of the testing shall be determined by the City's Medical Advisor, SAC or SAP if required.

2. Testing Procedures.

The procedures for collecting breath and urine specimens will be posted at the collection site. All drug tests shall be performed by a laboratory certified under the Department of Health and Human Services, Mandatory Guidelines for Federal Workplace Drug Testing Programs, 53 FR 11970, April 11, 1988, and subsequent amendments thereto. Employees that are not DOT Regulated Employees will be tested in a manner that mirrors 49 CFR Part 40 procedures. However, these tests shall not be performed on federal forms or under federal authority.

a. *Specimen Collection Procedure.* The Human Resources Department will instruct applicants to report to the testing site. Employees will be instructed by the supervisor where and when to report for drug and/or alcohol testing. Employees will also be instructed that they must present a photo I.D. at the time of testing. In cases of Reasonable Suspicion Testing, the employee will be transported to the test facility or the City may request a breath or urine specimen collection at the worksite.

The procedures for collecting urine specimens will follow the procedures set out in 49 CFR Part 40 to safeguard the validity of test results, and ensure the integrity and identify of the urine specimen that is produced. Specimens will be sealed and marked at the time of collection in order to maintain an intact chain of custody. The procedure will also allow for individual privacy unless, in the determination of the City, the collector, or the MRO, there is reason to believe that an employee may alter or substitute the specimen. Breath alcohol testing will follow Federal Procedures to ensure accuracy, reliability and confidentiality. All specimens, breath and urine, will be accompanied by the appropriate intact and correctly completed chain of custody form.

If testing under this policy is ever required of an employee who is in need of medical attention, necessary medical attention will not be delayed in order to collect the test specimen. However, such an employee shall promptly, upon request from the City, provide the necessary authorization for obtaining hospital reports and records and any other information at the time the need for medical attention and/or testing arose.

b. *Testing Procedures.*

(i) Drug Testing. Drug testing will be performed on urine samples and will be a 5 Panel Drug Test. The initial test will be performed by the enzyme immunochemical assay method. All specimens identified as a positive test on the initial test will be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques. A specimen will be treated as negative if the result of the initial test or the confirmatory test is negative. The City utilizes the UMC Toxicology Lab or Clinical Reference Laboratory for non-DOT specimen testing.

(ii) Alcohol Testing. Alcohol use will be tested using Evidentiary Breath Testing Devices (EBT). Breath Alcohol testing requires the individual to provide a breath sample. Should the initial breath sample have a result of 0.02 percent blood alcohol content or

greater, a confirmation test will be conducted within twenty (20) minutes. The confirmation test result takes precedence.

c. *Refusal to Test.* If an employee refuses to be tested or alters or attempts to alter the test sample, then such actions shall be treated as a positive test in addition to being a violation of this policy.

Behaviors constituting a test refusal: (1) failure to appear for a test in specified time frame (excludes pre-employment) (2) once test is underway, failure to remain at the testing site until the process is completed, (3) failure to provide volume of breath or urine without valid medical explanation, (4) failure to undergo a medical examination to verify insufficient volume, (5) failure to permit the observation or monitoring of specimen donation when so required, (6) failure to take an additional test required by the employer or collector, (7) failure to cooperate with any part of the testing process, (8) a drug test result that is verified by the MRO as adulterated or substituted, (9) possess or wear a prosthetic or other device that could be used to interfere with the collection process, (10) failure to sign the certification on Step 2 of the Alcohol Test Form (11) admit to the collector or MRO that you adulterated or substituted the specimen (12) tampering, adulterating, or substituting specimen (13) leaving the scene of an accident without just cause prior to submitting to a test.

3. Test Results.

a. *Drug Test Results.* The MRO will review positive drug test results with the applicant or employee before reporting them to the City. The substances for which the test was positive will be identified. The MRO may advise the City of a positive test result without having communicated with the applicant or employee about the test results if the applicant or employee expressly declines the opportunity to discuss the results of the test, or if the applicant or employee cannot be reached after reasonable efforts.

If the MRO determines there is a legitimate medical explanation for the positive test result, the MRO will report the test result to the City as negative.

The MRO may direct the City to conduct an immediate recollection of a negative dilute specimen under direct observation (because the creatinine concentration is at or lower than 2mg/dL to 5mg/dL). Otherwise, (if the creatinine concentration is greater than 5mg/dL) the City will consider a dilute negative as a negative result.

b. *Alcohol Test Results.* If an alcohol breath test results in a reading of 0.02 - 0.039 percent blood alcohol content, the individual shall not return to duty but shall be taken off duty and not returned to work for at least eight (8) hours, and must test below .02 percent alcohol concentration before returning to work. If an alcohol breath test results in a reading of 0.04 percent blood alcohol content or greater, in addition to the above the employee must meet with a SAP or SAC. This person shall determine when the employee may return to work.

d. *Report to Internal Investigations.* A positive result resulting from 5 Panel Drug Testing shall be reported to the Police Department Internal Affairs Unit, which shall investigate the result to determine whether the result was caused by incidental contact, exposure or ingestion of a drug. If the result is determined to be the result of incidental contact, exposure or ingestion then the result will be treated as negative for all purposes. If the result is determined to be for a cause other than incidental contact, exposure or ingestion, the result will be treated as positive for all purposes. No referral for prosecution will be made for the results of random drug testing except where other evidence exists that supports an allegation of criminal conduct.

c. *Confidentiality.* The results of a positive test shall be kept confidential from the general City work force and public, except that members of management may be made aware that the employee's drug test was positive. The results may be known to the test facility, the MRO, City's Designated Employer Representative, SAP or SAC and the employee. The City may use the results to determine the appropriate response to employee drug and/or alcohol use and to support its disciplinary or other actions or to defend the City in a court or administrative hearing.

The MRO, SAP, or SAC and the City shall not release the individual test result of an employee to any unauthorized party without first obtaining written authorization from the tested individual or as required by law.

The employee may, upon written request, obtain copies of any records pertaining to the employee's use of prohibited drugs, including records pertaining to the employee's drug test. There shall be no charge for these records.

4. Actions Taken in Response to Test Results.

a. *Refusals.* An employee who refuses to be tested as provided for herein will be treated as having a positive test result and may be subject to disciplinary action up to and including termination. Uniformed Officers, temporary and probationary employees with a positive result in 5 Panel Drug Testing shall be dismissed. Other employees, if not dismissed, shall, at a minimum, be removed from duty, referred to a SAP or SAC, and will not be allowed to return to work until a Return to Duty process has been completed. Applicable accumulated leave or leave without pay may be granted for time away from work, treatment, counseling or rehabilitation under applicable ordinance provisions.

b. *Drug Tests.* An employee whose drug test result is reported as positive shall be removed from duty, referred to a SAP or SAC and shall be subject to disciplinary action up to and including dismissal. Uniformed Officers, temporary and probationary employees with a positive result in 5 Panel Drug Testing shall be dismissed. Other employees, if not dismissed, will not be allowed to return to work in his or her position until a Return to Duty process has been completed. Applicable accumulated leave or leave without pay may be granted for time away from work, treatment, counseling or rehabilitation under applicable ordinance provisions.

c. Alcohol Tests.

i. Between .02 and .039 BAC. An employee whose breath test results in a reading of 0.02 – 0.039 percent breath alcohol content shall be immediately removed from duty and not allowed to return to work for at least eight (8) hours. If the employee is permitted to return to work after a positive result under this section, then he or she shall be tested again after at least eight (8) hours and must take a breath alcohol test with a result less than .02 percent blood alcohol concentration before returning to duty. An employee who has tested positive under this subsection may be referred to a SAP or SAC for evaluation and may be subject to disciplinary actions up to and including dismissal.

ii. At .04 or above BAC. An employee whose breath test results in a reading of 0.04 percent blood alcohol content or greater shall be immediately removed from duty. . Temporary and probationary employees with a BAC of 0.04 or higher shall be dismissed. The employee will not be allowed to return to work until a Return to Duty process has been completed. Applicable accumulated leave or leave without pay may be granted for time away from work, treatment, counseling or rehabilitation.

d. *Previous Positive Result.* An employee whose drug test result is reported to the City as positive or whose breath result is reported to the City as positive or whose breath test is 0.04 percent breath alcohol content or greater and who has previously had a positive drug test or breath alcohol test or who has had a previous mandatory referral for drug and alcohol counseling as required of these rules, will be terminated in accordance with 19-206.

e. *Rehabilitation Program Compliance.* If an employee fails to immediately begin an approved rehabilitation program and remain compliant with a rehabilitation agreement, successfully complete the program, participate in required or recommended after-care or otherwise fail to follow directives or instructions regarding the program, then the employee is in violation of this policy and may be subject to disciplinary action up to and including dismissal.

f. *Post Rehabilitation.* An employee who tests positive for illegal drugs or alcohol use of .04 or greater cannot return to work until he/she meets the following conditions:

i. Successfully completes a City approved rehabilitation program or completes the initial phase of such program and continues to participate in any program after care required by the rehabilitation facility doctor and/or counselor.

ii. No further use of a controlled substance or prohibited use of alcohol as indicated by a negative drug/alcohol Return to Duty test result at the time of release or before resuming work duties.

iii. Obtains a full written release and recommendation to return to duty from the treatment facility doctor and/or counselor.

iv. Agrees to be subject to post-rehabilitation unannounced follow-up testing as determined by the SAP or SAC for a minimum of 1 year, with at least 6 unannounced tests in the first year, and continue in the program for up to 5 years as deemed necessary by the SAP or EAP.

5. Accidental/Inadvertent Exposure.

Any officer or employee who believes that they may have been exposed to any substance that could render a positive test result must notify this department immediately after the exposure. If the exposure occurs on duty the officer or employee must immediately notify their supervisor. A report detailing the exposure shall be forwarded to the Internal Affairs Unit for the purpose of determining whether a random drug test result is the due to incidental or accidental exposure. If the exposure occurs off duty, notification must be made without undue delay.

6. Pre-Duty Alcohol Use.

In addition to other restrictions in this Division, Uniformed Officers shall not consume any alcohol, regardless of amount, within four hours prior to reporting for a scheduled shift or four hours prior to operating a department vehicle. If called to come in to work within 4 hours of using or ingesting alcohol, or while impaired, the officer shall indicate the potential impairment in response to the request and shall not report unless specifically ordered to do so by an officer of the rank of lieutenant or higher who is aware of the officer's prior consumption of alcohol; when so ordered, the officer shall arrange appropriate transportation.