

CITY OF CHESAPEAKE, VIRGINIA

NUMBER 2.44 (23.8)

ADMINISTRATIVE REGULATION

EFFECTIVE DATE: 02/15/05

**SUBJECT: DEPARTMENT OF HUMAN RESOURCES
SUBSTANCE ABUSE POLICY**

SUPERSEDES: 06/13/95

I. PURPOSE

The City of Chesapeake is committed to maintaining a work environment for all employees that is free from the effects of alcohol and drugs and will abide by all State and Federal laws governing alcohol and controlled substance testing. To that end, and in compliance with the Drug-Free Workplace Act of 1988 and the Omnibus Transportation Employee Testing Act of 1991 and the regulations promulgated by the U.S. Department of Transportation under that Act, this Policy will outline the positive steps the City will take to identify and eliminate any drug and alcohol abuse in the workplace.

In order to maintain a safe work environment, it is the City's policy that the unlawful use, manufacture, distribution or possession of drugs or alcohol on the job is strictly prohibited. Further, coming to work under the influence of drugs or alcohol is prohibited. All employees and other persons covered by this Policy must comply with this Policy and violations of its provisions will result in discipline up to and including termination of employment or withdrawal of a conditional offer of employment.

Any employee who has a drug or alcohol related problem is encouraged to voluntarily seek treatment through the City's Employee Assistance Program before the problem affects their employment with the City.

II. ORGANIZATION CONTACT:

To obtain further information regarding this policy, please contact Elisabeth Thornton, Assistant Director of Human Resources, 757-382-6373.

To obtain information regarding testing or testing sites please contact, NowCare, 757-424-4300, the Contract Substance Abuse Program Administrator.

III. DEFINITIONS

Alcohol is defined as the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl and isopropyl alcohol. Alcohol also includes any beverage, mixture, preparation, or medication, containing alcohol.

City Vehicle is defined as any motor vehicle as described in the Code of Virginia as well as any vehicle requiring the operator to have and maintain an operator's license to operate; all self propelled motorized vehicles to include, but not limited to: tractors, lawnmowers, golf carts, two, three and four wheeled recreation and/or utility vehicles, used by the city; motorcycles,

construction equipment, industrial forklifts, fire vehicles and their carriage, aircraft, watercraft and any other self propelled motorized vehicles for use on land, water, air or sea.

Collection site is the place designated by the City where individuals present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs or where their breath is tested for the presence of alcohol. The location shall provide reasonable privacy to the individual being tested, sufficient to prevent unauthorized persons from seeing or hearing the test results.

Designated Representative means the Director or Assistant Director of Human Resources, or in their absence, their designee, who shall be able to receive communications and test results from the Contract Substance Abuse Program Administrator.

DOT--Department of Transportation--regulations governing the testing of employees required to maintain a Commercial Driver's License as a condition of their employment.

Evidential breath testing device is defined as a type of equipment used for the testing of breath for the presence of alcohol.

Illegal drug is defined as any substance which is not legally obtainable or has been illegally obtained. Illegal drugs include but are not limited to all forms of narcotics, depressants, stimulants, hallucinogens or their derivatives (including marijuana, crack). This term includes prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes (abuse).

Medical Review Officer is defined as a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

NON-DOT positions are grouped under the title Safety and Security Sensitive as defined by the Director of Human Resources.

Random testing is defined as the process of identifying employees for testing based upon numerical data in a chance sequence.

Reasonable suspicion is defined as an inference, based upon specific, contemporaneous, articulable observations, that an employee's physical or mental condition could be affected by alcohol and/or drug use.

Safety & Security Sensitive positions, for purposes of this policy, is the group of positions determined by the Director of Human Resources to be included in random or pre-employment drug and alcohol testing. The group of positions includes, but is not limited to, positions where the handling and/or use of equipment or materials which, if mishandled or carelessly handled, could jeopardize the safety of employees or citizens.

Screening test or initial test means 1) in drug testing, a test to eliminate “negative” urine specimens from further analysis or to identify a specimen that requires additional testing for the presence of drugs; 2) in alcohol testing, an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

Under the influence is defined as observable behavior which indicates the employee is affected by a drug or alcohol or the combination of a drug and alcohol and/or having a breath alcohol level or drugs in the body at any unsatisfactory test levels, as established by the U.S. Department of Health and Human Services and/or adopted by the U.S. Department of Transportation and the City of Chesapeake.

Unsatisfactory test levels are results obtained from alcohol/drug screening and confirmatory testing, indicating that an employee is unfit for duty.

Validity testing is defined as the evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants (substances or concentrations of substances not consistent with human urine) or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

IV. APPLICABILITY

This policy applies to all full time and part time City employees, applicants, volunteers, and contract workers.

V. STATEMENT OF EMPLOYEE RESPONSIBILITIES

An employee must:

- A. not report to work or be subject to duty while his/her ability to perform job duties is impaired due to alcohol or drug use;
- B. not use alcohol for four hours prior to reporting to work to perform a safety-sensitive function;
- C. not possess or use drugs or alcohol or have the odor of alcohol on his/her breath during any assigned working hours, including breaks and meal periods, while on City premises or in an official capacity in another location, or while operating any City vehicle;
- D. not have unsatisfactory levels of alcohol or controlled substances in his or her body while on duty or assigned to “stand-by” or on-call status;
- E. not directly, or through a third party, sell or provide drugs to any person or drugs or alcohol to any other employee while either employee or both employees are on duty, or assigned to "on-call" status;

- F. submit immediately to requests for alcohol and/or drug testing when requested by a responsible City representative;
- G. notify his/her supervisor, before beginning work, when taking any medication or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of City equipment;
- H. provide, within twenty-four (24) hours of request, a current valid prescription, in the employee's name, for any drug or medication identified when a drug screen/analysis is positive.
- I. notify the City of any criminal drug or alcohol statute conviction for a violation occurring in the employee's workplace no later than five (5) calendar days after such conviction; and
- J. not use alcohol during the eight (8) hours following an accident in a City vehicle if fault has not been determined and the alcohol/drug analysis has not been administered.

A supervisor must:

- A. observe and monitor their employees' behavior for signs or symptoms of drug or alcohol use and shall promptly document and report any such observations to the appropriate department head or designee;
- B. not allow an employee to perform safety or security sensitive duties, operate a City vehicle or perform any work, if that supervisor has knowledge or "reasonable suspicion" that an employee is using, under the influence, or has possession of alcohol or illegal drugs. Once a test is verified as positive, the employee must be removed from safety-sensitive functions immediately pending disciplinary action;
- C. protect confidentiality by not sharing test results with inappropriate staff/persons;
- D. not warn an employee that he or she has been selected for random testing prior to the official notification to report for testing; and
- E. attend all required substance abuse supervisory training programs.

VI. NOTICE OF TESTING POLICY

The City of Chesapeake shall provide a copy of this policy to all employees. Published position vacancy announcements will state "The City of Chesapeake maintains a drug and alcohol free

workplace. Employees who test positive for drugs and/or alcohol are terminated from employment."

VII. OCCASIONS FOR SUBSTANCE ABUSE TESTING

All Applicants and City Employees

The City may require an applicant or current employee to undergo drug or alcohol testing under the following circumstances:

A. Pre-employment (Post Offer) Testing

Applicants for the following types of positions, whose work affects the health and safety of City employees and the public, are required to undergo a drug and alcohol test upon an offer of employment and prior to beginning work:

1. All public safety positions, including police, fire, sheriff, emergency medical services and dispatchers;
2. All positions whose work involves the operation of a City vehicle or vehicular equipment on more than an occasional or intermittent basis;
3. All positions whose work involves hazardous or potentially hazardous functions, or requires the use of hazardous or potentially hazardous equipment;
4. All positions involving duties of such a nature that a lapse in constant attention and alertness may jeopardize the health or safety of others;
5. All positions requiring a commercial motor vehicle license (CDL);
6. All positions involved in road repair and maintenance;
7. All positions involved in the repair of motor vehicles and heavy equipment, except those exempt from the CDL requirement;
8. All positions involved in operation or repair of vehicles designed to transport 16 or more passengers;
9. All positions involved in transporting hazardous materials; and
10. All positions deemed safety and or security sensitive.

Particular positions meeting the above criteria shall be determined by the Director of Human Resources in consultation with the appropriate department head.

B. Current Employee Testing

1. Reasonable Suspicion

The City may require a current employee to undergo drug or alcohol testing if there is "reasonable suspicion" that the employee is under the influence of drugs or alcohol on the job or during working hours. Circumstances which constitute a basis for determining "reasonable suspicion" may include, but are not limited to, the following:

- employee exhibits abnormal or erratic behavior or appearance during, just preceding or just after completion of safety sensitive job functions. Observations concern the appearance, actions, speech, or emanating odors of the employee;
- on-the-job accident or serious incident where the cause is unknown and the supervisor or departmental representative has reason to question the physical and emotional condition of the involved employee(s);
- direct observation of drug or alcohol use;
- possession of drugs or drug paraphernalia; or
- presence of the physical symptoms of drug or alcohol use (e.g., glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and/or reflexes, needle marks/scar tracks on arms, etc., onset of unusual perspiration or shakes, unusual drowsiness or sluggishness).

An employee who is directed to be tested for reasonable suspicion may not return to work until the test results are known. The employee may be placed on approved annual leave. If the test results are negative, the employee's leave balance is restored and the employee returns to full duty status. If the test results are positive, the employee will receive discipline consistent with the Disciplinary Policy.

The supervisors of employees covered by the provisions of the Omnibus Transportation Employee Testing Act of 1991 are authorized to require reasonable suspicion testing if they have received the required minimum of 60 minutes of training on alcohol misuse and 60 minutes of training on substance abuse. The training shall include behavioral indicators, circumstances for testing, procedures that will be used for testing and consequences of a positive test.

The supervisors of employees not covered by the Omnibus Transportation Employee Testing Act of 1991 are not required to participate in the mandated training program in order to refer an employee for reasonable suspicion testing.

Prior to the administration of a drug or alcohol test for reasonable suspicion, the behavior of the affected employee should be observed by at least one supervisor. The supervisor shall report to the department head or designee the specific facts, symptoms, or observations which form the basis for a belief that "reasonable suspicion" exists to

warrant the testing of an employee, and shall obtain approval from the department head or designee prior to ordering an employee to submit to testing.

Department heads will designate a sufficient number of supervisory officials with approval authority so that one will be available for approvals at all times.

Supervisors shall document in writing on the Substance Abuse Policy Report Form (Appendix A) the specific facts, symptoms, or observations, justifying a determination of "reasonable suspicion" within twenty four hours of the observed behavior or before the results of the test are released, whichever is later.

2. Random Testing – General

The City may require a current employee to participate in random testing when the employee performs duties which require:

- the handling and/or use of firearms; or
- the confiscation; custody, and/or handling of illegal drugs; or
- access to confidential law enforcement information which, if disclosed to unauthorized persons, could jeopardize the success of law enforcement activities; or
- the exercise of independent judgment in emergency situations;
- the handling and/or use of equipment or materials which, if mishandled or carelessly handled, could cause serious injury or damage; or
- any activity deemed safety or security sensitive.

Particular positions meeting the above criteria shall be determined by the Director of Human Resources in consultation with the appropriate department head. Employees will not receive prior notification of the date or time of any random test conducted.

3. Random Testing - Special Circumstances

Employees in the following positions may be subjected to random testing on a more frequent basis and to testing prior to special events, due to the City's heightened interest in insuring these employees are drug free:

- S.W.A.T. team snipers;
- undercover narcotics officers whose assignments include purchasing illegal drugs; or

- officers assigned to national security protection detail.
4. Random Testing and Additional Requirements: Employees Covered by DOT Regulations

Employees in positions covered by the Omnibus Transportation Employee Testing Act of 1991 and the guidelines effective January 1, 1995, are subject to the following testing requirements in addition to those listed under VII B1-3.

- a. Pre-duty Testing is required when an employee is transferred, promoted, reclassified or demoted to a safety or security sensitive position
- b. Post Accident Testing requires that an employee must be tested as soon as practicable following an accident involving a city vehicle, in the case of a fatality, a transport for medical attention, a moving violation with citation issued and/or in connection with a reported accident (fatality, injury (treated at scene or away from scene) and/or vehicle towed from the scene as a result of an accident). A post accident test may be required for city vehicle accidents where the supervisor and/or Risk Management representative can find no reasonable explanation for the cause of the accident or there is extreme damage to property and/or serious injury arising out of the use or the operation of the city vehicle. The time frame and process regarding failure to test promptly are as follows:
 - Alcohol tests must be administered within 2 hours following the accident, if required. If unable to test within this time frame, the supervisor shall prepare and maintain on file a record which explains why the test was not promptly administered. If a test required under this section is not administered within 8 hours following the accident, the supervisor shall cease attempts to administer an alcohol test and shall document the reasons in a report to the Department of Human Resources. This does not constitute a surrender of the City's right to continue investigation or resulting use of the disciplinary process if independent facts warrant.
 - Drug tests, if required, must be administered within 32 hours following the accident. If unable to test within this time frame, the supervisor shall cease attempts to administer a drug test, and prepare and maintain on file a record which explains why the test was not promptly administered. This does not constitute a surrender of the City's right to continue investigation or resulting use of the disciplinary process if independent facts warrant.
 - An employee who is seriously injured and cannot provide a specimen at the time of the accident shall provide the necessary authorization for obtaining hospital reports and other documents that would indicate whether there were any drugs or alcohol in his/her system.

- An employee who is subject to post-accident testing must remain available at the accident site until directed otherwise by his/her supervisor, or the City will consider the employee to have refused to submit to testing. Refusal to submit to substance abuse testing will result in termination of employment.

c. Random Testing

Effective January 1, 1995, employees covered by the Omnibus Transportation Employee Testing Act of 1991 were placed in a separate drug/alcohol testing group. The random selection procedure is computer generated using a random number generator and the file identifier of these employees. The Contract Substance Abuse Program Administrator will generate a list of employees to be randomly tested and will forward that list on a monthly basis to the Department of Human Resources.

- Within every twelve month period, at least 10% of employees in the random group will be selected for testing for alcohol, and 50% of the employees will be tested for drugs.
- An employee who is subject to random testing must report to the collection site immediately upon notification by his/her supervisor. A member of supervision will accompany the employee to the collection site, when appropriate. Failure to report promptly, as directed, will result in termination of employment.
- The following is a listing of positions covered under the provisions of the Omnibus Transportation Employee Testing Act of 1991:
 - All positions requiring a commercial motor vehicle license;
 - All positions involved in the repair of motor vehicles and heavy equipment, except those exempt from the CDL requirement;
 - All positions involved in operation or repair of vehicles designed to transport 16 or more passengers ; and
 - All positions involved in transporting hazardous materials.

d. Return to Duty Testing

When an employee is returning to duty for any position covered by the Omnibus Transportation Employee Testing Act of 1991, after being on leave or absent from the job for at least thirty calendar days, or after absence following positive results, testing is required before returning to a covered function.

VIII. SUBSTANCES TO BE INCLUDED IN SCREENING TEST

When drug and/or alcohol screening is required under the provisions of this Policy, a urinalysis, or breathalyzer test/Evidential Breath Test in the case of alcohol, will be given to detect the presence of the following drug groups:

DOT

- Alcohol (all forms),
- Amphetamines/Methamphetamine
(*e.g., speed, crystal*)
- Cocaine
- Opiates
(*e.g., Codeine, Heroin, Morphine, Hydromorphine, Hydrocodone*)
- Phencyclidine (PCP)
- THC (Marijuana).

NON-DOT

Safety & Security Sensitive

- Alcohol (all forms)
- Amphetamines/Methamphetamines
- Cocaine
- Opiates
- Phencyclidine
- THC (Marijuana)

Abuse of drugs not referred to above.

While use of medically prescribed medications and drugs is not per se a violation of this Policy, failure by the employee to notify his/her supervisor, before beginning work, when taking medication or drugs which may interfere with the safe and effective performance of duties or operation of City equipment may 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 or drugs, the issue will be resolved based upon a competent medical evaluation.

To ensure specimen validity, screening for creatinine, pH and adulterants will also be conducted.

IX. TESTING PROCEDURE

A. General

All drug and alcohol testing of employees and applicants shall be conducted at facilities or laboratories selected by the City. All procedures for the testing, analysis, labeling, handling, retention and storage of the test samples shall be in accordance with standards established by the Substance Abuse And Mental Health Services Administration (SAMHSA) or 49 CFR (Code of Federal Regulations) Part 40.

Supervisors will secure a testing form from the department's designated representative or the Department of Human Resources. The supervisor will complete the appropriate section on the form identifying the reason for testing. In the case of an applicant, the testing form will be given to the applicant, with the directions to the collection site, along

with instructions on the pre-employment post offer medical examination process. All persons covered by this Policy are required to bring a photo identification card with them to the collection site.

The supervisor is responsible for obtaining transportation for the employee to and from the drug and alcohol testing site for reasonable suspicion and post accident testing. The Department of Human Resources will provide departments with the name and location of testing sites. The supervisor shall inform the employee: of the reason for the test; that the submission to a drug and alcohol screening test is a condition of continued employment; and refusal to cooperate fully with the administration of the test will result in termination of employment.

Prior to the administration of the drug/alcohol test, the employee will sign the Notice to Report form.

Alcohol testing shall be conducted by a breath alcohol technician (BAT) who is proficient in the operation of the evidential breath testing device (EBT) that he or she is using. Law enforcement officers who have been certified by the State or the City to conduct breath alcohol testing are deemed qualified as BAT's. An EBT shall be used for a screening test.

An applicant or employee shall be given the breath alcohol testing form to give to the designated person at the testing facility. The applicant or employee shall provide the required identification and sign the certification form where required. The BAT shall give the applicant or employee instructions on how the breath will be collected.

If the employee is unable to produce sufficient breath, the Contract Substance Abuse Program Administrator will notify the Department of Human Resources designated representative. The Designated Representative will in turn inform the referring department. The department will direct that the employee be medically evaluated to determine if there is a medical reason why the employee was unable to provide sufficient breath. If the licensed physician determines, in his or her medical judgment, that a medical condition has, with a high degree of probability, precluded the employee from providing an adequate amount of breath, the employee's failure to provide an adequate amount of breath shall not be deemed a refusal to take a test. The physician shall provide to the City a written statement of the basis for his or her conclusion. If the licensed physician, in his or her reasonable medical judgment, determines that there is not sufficient medical cause to preclude an employee from providing the amount of breath required, the employee shall be regarded as having refused to take a test.

The drug testing procedure requires that a urine sample be obtained from the applicant or employee at a designated collection site. A split specimen test is required. The collection site representative shall instruct the employee to provide at least 45 ml. of urine. In the presence of the donor, the collection site representative checks the specimen for volume, temperature and color and pours the urine into two specimen bottles. At least 30 ml. of obtained urine is poured into one bottle to be used as the primary specimen with the

remaining 15 ml. or more poured into a second bottle to be used as the split specimen. The applicant or employee shall view the entire collection and sealing process to ensure conformity with procedure. The collection site will be responsible to insure that the chain of custody requirements are followed.

If the applicant or employee is unable to provide a sufficient sample for testing, the applicant or employee will remain at the collection site, for up to 3 hours, until he or she is able to provide a sufficient urine sample . The applicant or employee will be allowed to consume up to 40 ounces of fluids during this period.

B. Refusal to Consent: Applicants

A job applicant who refuses to consent to a drug and/or alcohol test, when requested, will be denied employment with the City. Any refusal or failure to cooperate fully with the administration of a test, any behavior which makes testing more difficult, or prevents administration or completion of the test, or in any manner alters or attempts to alter the test results (including adulteration or substitution), will be treated as a refusal to consent, regardless of whether a Consent Form is signed.

C. Failure to Cooperate: Employees

An employee who refuses to cooperate in the administration of a drug and alcohol test, upon request, will be terminated from employment. Any refusal or failure to cooperate fully with the administration of a test, any behavior which makes testing more difficult, or prevents administration or completion of the test, or in any manner alters or attempts to alter the test result (including adulteration or substitution), will be treated as a refusal to consent. Any employee who fails to immediately report to the testing site when directed by a supervisor, is considered to be in violation of this policy and the delay in reporting for testing will be treated as a failure to cooperate. Failure to cooperate also includes failure to provide a urine specimen for any drug screen, failure to permit the observation or monitoring of delivery of a specimen, failure to provide sufficient amount of urine when directed (and it is determined, through a required medical evaluation that there is no adequate medical explanation for the failure) and a report from the MRO of a verified adulterated or substituted specimen.

D. Confirmation of Test Results and Employee/Applicant Notification

An employee or job applicant will be notified of a negative test result by the department representative ordering the test.

An employee or job applicant whose drug screen yields a positive result shall be given a confirmation test using a gas chromatography/mass spectrometry (GC/MS) test. The confirmation test shall use a portion of the same test sample produced from the employee or applicant for use in the first test.

All positive drug test results are reported by the Medical Review Officer (MRO). The MRO will contact the Designated Representative to notify the supervisor. The supervisor then contacts the applicant/employee to discuss the results of the test. The employee or job applicant has 72 hours in which to notify the MRO that an additional test of the split specimen is requested. The reconfirmation test will be at the employee's expense. Once requested, the MRO will have the split specimen sent to a different certified laboratory to be tested. If there are circumstances beyond the control of the employee which results in the applicant/employee being unable to meet the 72 hour notice, the Department of Human Resources or the MRO can waive that requirement. This notification is required in all cases of confirmed positive laboratory results, except those situations in which an employee has waived the opportunity to talk to the MRO. The applicant/employee is not required to wait until after a verified positive test in order to request an analysis of the split specimen. The verification to the employer would not be delayed pending the result of the analysis of the split specimen.

Once a test is verified as positive, the employee must be removed from safety-sensitive functions immediately pending disciplinary action. The MRO shall send all verified positive test requests to the Designated Representative. If the split specimen test is negative, the MRO shall report to the City a cancelled test result. Once the employing department has been notified of the negative results, the employee may be reinstated to full duty.

In the event a specimen is adulterated the MRO will follow the same procedure used for verification of a confirmed positive test.

In the case of a positive alcohol test, the evidential breath test will be given again, after waiting no more than 20 minutes following the initial test. The employee or applicant may not eat, drink, put any object or substance in his mouth and to the extent possible not belch during the period between the screening test and the confirmation test. If the BAT becomes aware that the employee/applicant has not complied with this instruction, the BAT shall so notice in the remarks section of the testing form. The results of the confirmed test will be forwarded by the Department of Human Resources to the department head or his designee. In the event that the screening and confirmation test results are not identical, the confirmation test result is deemed to be the final result upon which any action regarding disciplinary action is based, if necessary.

Information regarding positive test results will be treated in a strictly confidential manner and shall be divulged only on a need-to-know basis.

E. Role of the Medical Review Officer

The primary responsibility of the Medical Review Officer (MRO) is to review and interpret laboratory confirmed positive, substituted and adulterated test results with the employee. The MRO must assess and determine whether alternate medical explanations could account for the positive test results.

The MRO shall communicate the results of a confirmed positive, adulterated or substituted test to the employee prior to the formal notification to the City. The MRO will advise the employee of his/her option to have the second specimen bottle shipped to another laboratory for verification. To exercise this option, the employee must advise the MRO within 72 hours of notification of the verified positive test. The reconfirmation test will be at the employee's expense.

F. Consequences of a Confirmed Positive Test Result

1. Applicants

Job applicants will be denied employment with the City if their initial positive screen results are confirmed. Applicants shall be informed in writing if they are rejected on the basis of a confirmed positive drug test result. Applicants who are denied employment due to a positive drug or alcohol test are not eligible for employment for a period of three years.

2. Employees

a. Alcohol Test Results

If an employee's alcohol test is positive at .04 or higher, the employee will be terminated from employment.

If an employee's alcohol test is .02 to .039, the employee is subject to disciplinary action up to and including termination. Employee's holding CDL's must be removed from safety sensitive duties for 24 hours.

b. Drug Test Results

If an employee's drug test result is confirmed as positive, the employee will be terminated from employment.

Recommendations for disciplinary action for violation of this policy, will be consistent with the City's Disciplinary Policy to ensure that due process is observed throughout all proceedings. This policy shall be administered consistent with the City's obligations under federal, state, and local laws. Employees who violate the terms of this policy are not eligible for re-employment for three years. Consideration for employment after the three year period will be given provided they submit evidence that they have successfully completed a substance abuse treatment program.

Mitigating circumstances will not be applicable to employees with confirmed positive tests for drugs or alcohol tests of .04 or higher.

The employee who has a positive test result must be removed from his safety sensitive position until a final decision is made regarding discipline.

G. Referral to Substance Abuse Agencies for employees terminated under the Omnibus Transportation Employee Testing Act of 1991

All persons covered by this Policy who are terminated shall be provided information on some of the resources available to resolve alcohol and drug problems (Appendix B). The former employee will be referred to Bon Secours EAP, who serves as the City's Substance Abuse Professional. Any costs associated with the evaluation or any recommended counseling or treatment shall be the responsibility of the former employee.

H. Confidentiality of Test Results

All information from an employee's or applicant's drug and alcohol test is confidential and only those with a need-to-know are to be informed of test results. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the employee or applicant. The results of a positive drug test shall not be released until the results are confirmed.

Disclosures, without an employee's or applicant's consent, may also occur when:

1. the information is compelled by law or by judicial or administrative process;
2. the information has been placed at issue in a formal dispute between the employer and employee or applicant;
3. the information is to be used in administering an employee benefit plan;
4. the information is needed by medical personnel for the diagnosis or treatment of the individual who is unable to authorize disclosure.

Records of verified positive test results, documentation of refusals to take the required test, referrals to substance abuse professionals, and copies of annual management information reports submitted to the federal government shall be maintained for five years. Records related to the collection process and employee training shall be maintained for two years. Records of negative test results shall be maintained for one year.

Test results are kept in a separate file, not in the personnel file. Disciplinary information related to any violation of this policy will be kept in the employee's personnel file.

X. SUBSTANCE ABUSE AWARENESS PROGRAM

The Department of Human Resources shall be responsible for the development of a Substance Abuse Awareness Program which will provide information on the dangers of substance abuse in

the workplace, available community resources, and substance abuse detection. Supervisors are responsible for requesting training in the recognition and signs of alcohol misuse and drug abuse through the Department of Human Resources. Supervisors and managers of employees covered under DOT regulations must participate in this training every two years. DOT employees will be provided educational material concerning alcohol and drug misuse and the provisions of this policy. Classes on substance abuse awareness will be available for all Non-DOT employees who wish to attend.

XI. CRIMINAL CONVICTIONS: NOTIFICATION

- A. It shall be the responsibility of every employee to notify the employee's department head, in writing, of any criminal drug or alcohol statute conviction for a violation occurring in the workplace no later than five (5) calendar days after such conviction. Any failure of an employee to provide this notification shall be a separate ground for disciplinary action.
- B. Any department head who receives notification of a criminal drug or alcohol statute conviction for a violation occurring in the workplace, in addition to other administrative actions directed by this Policy, shall immediately report the same to the Director of Human Resources who shall determine whether the employee involved was directly engaged in the performance of work pursuant to the provisions of a Federal grant. In such event, the Director of Human Resources shall promptly notify the Federal agency administering the grant of the conviction.

XII. SEARCHES

The City reserves the right to search, without employee consent, all areas and property over which the City maintains joint control with an employee, or full control. Such areas and property include, but are not limited to, desks, closets, bookcases, lockers, file cabinets, and/or City vehicles. Warrants shall be obtained, if necessary, to search areas or property over which the City has no control.

XIII. SEVERABILITY

The provisions of this Policy are severable and, if any of its provisions shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Dr. Clarence V. Cuffee, City Manager

Date

Appendix A

CITY OF CHESAPEAKE

SUBSTANCE ABUSE POLICY REPORT FORM

This is to certify that _____ has reasonable suspicion to believe
(*supervisor*)

that on _____ at _____ a.m./p.m., _____ was
(*date*) (employee)

(a) in possession of, or

(b) under the influence

of a substance or substances in violation of the City's Substance Abuse Policy.

The following are the specific facts that have led me to suspect that the above-named employee has violated the City's Substance Abuse Policy:

Date: _____

Observing Supervisor's Signature

CC: Department Head
Department of Human Resources (Must be submitted within twenty four hours or next regular City work day.)

Appendix B

AVAILABLE INTERVENTION SOURCES

There are a variety of resources available to assist you or provide you with information regarding alcohol or substance abuse.

Bon Secours EAP shall be used as the Substance Abuse Professional.

Bon Secours EAP is a service provider who is able to see you on a one-time basis only and will refer you to other treatment. You may reach them by calling **1-800-EAP3257**.

Resources for Substance Abuse (Alcohol or Drugs) Treatment

Community Services Boards

Chesapeake	547-9334
Portsmouth	393-8896
Virginia Beach	437-6158
Norfolk	664-6670

Hospitals

Maryview Psychiatric	398-2394
Virginia Beach Psychiatric	496-6000

Alcoholics Anonymous Hotline: 1-800 274-2042

An information and support group operating through local chapters to provide assistance to recovering alcoholics.