City of Minneapolis
Pre-Employment Drug & Alcohol Testing Policy
(Links to procedures and form(s))

Applies to: Certain classified, appointed or temporary positions under the jurisdiction of the Mayor and City Council. This policy does not apply to the hiring of Election Workers, Student Interns and Summer Youth Workers.

Synopsis: Establishes policy, roles and responsibilities for conducting pre-employment drug & alcohol tests on prospective employees.

Council Approval Date: November 22, 2002 (Current Policy) **Effective Date:** November 1, 2008

Links to Related Regulations: 152.02, Minnesota Statutes 2007;181.951, Minnesota Statutes 2007; Drug-Free Workplace Act of 1988

Administering Departments: Human Resources and Finance **Contact:** Charles J. Bernardy and Ellen Velasco-Thompson **Phone Numbers:** (612) 673-3103 and (612) 673-3994

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1. **POLICY STATEMENT -** Abuse of drugs and alcohol is a nationwide problem. It affects persons of every age, race, sex and ethnic group. It poses risks to the health and safety of employees of the City of Minneapolis and to the public. To reduce those risks, the City adopts this policy concerning drugs and alcohol in the workplace. This policy establishes standards concerning drugs and alcohol testing which all job applicants for positions covered by this policy must meet.

   This drug and alcohol testing policy is intended to conform to the provisions of the Minnesota Drug and Alcohol Testing in the Workplace Act (Minnesota Statutes, §§ 181.950 to 181.957), as well as the requirements of the federal Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D) and related federal regulations.

   The Human Resources Director is directed to develop and maintain procedures for the implementation and ongoing maintenance of this policy and to establish testing procedures to ensure that the standards listed in this policy are met.

2. **POSITIONS COVERED:** This policy covers drug and alcohol testing for positions that meet one or more of the following criteria:

   a) A Driver's License is a minimum qualification; or
   b) Access to drugs and alcohol; or
   c) Operation of heavy and/or motorized equipment; or
   d) Direct interaction with children or vulnerable adults; or
   e) Dispatches or responds to life-threatening emergencies; or
   f) Handles cash, cash equivalents, checks, securities or has access to bank or investment accounts.

   Any position that meets one or more of the above criteria will require drug and alcohol testing. It is possible that not all positions within a job classification will be subject to drug and alcohol testing.

3. ROLES & RESPONSIBILITIES

Role	Responsibility
Hiring Authority	Understand and comply with all City policies and procedures with respect to hiring appointed, classified and temporary employees.
Human Resources	a) Develop, implement, manage and update the policy. b) Establish, manage and modify procedures necessary to carry out and comply with the policy in accordance with applicable laws, City ordinances, policies and rules.
Medical Review Officer/Third Party Clinic	Deliver services and conduct Pre-Employment Drug and Alcohol Tests in accordance with State and Federal Laws and as described in the contract between the Medical Review Officer/Third Party Clinic and the City of Minneapolis Finance Department.

4. PERSONS SUBJECT TO TESTING - Job applicants for positions covered by this policy are subject to pre-employment drug and alcohol testing. However, no job applicant will be tested for drugs or alcohol under this policy without the job applicant's consent. The Employer will request or require a job applicant to undergo drug or alcohol testing only under the circumstances described in this policy.

5. CIRCUMSTANCES FOR DRUG OR ALCOHOL TESTING - The Employer may request or require a job applicant to undergo drug and alcohol testing if: (1) the job applicant has been given a job offer contingent on providing a "valid sample with a certified result" as that termed is defined in the Pre-Employment Drug and Alcohol Testing Policy and passing drug and alcohol testing; and (2) the same test is requested or required of all job applicants conditionally offered employment for that position. The Human Resources Director or any designee of the Human Resources Director will determine if drug and alcohol testing will be required for a position.

6. REFUSAL TO UNDERGO TESTING

a) **Right to Refuse** - Job applicants have the right to refuse to undergo drug and alcohol testing. If a job applicant refuses to undergo drug and alcohol testing requested or required by the Employer, no such test shall be given.

b) **Consequences of Refusal** - If any job applicant refuses to undergo drug and alcohol testing requested or required by the Employer, the Employer may withdraw the job offer that was conditional upon passing drug and alcohol testing.

c) **Refusal on Religious Grounds** - No job applicant who refuses to undergo drug and alcohol testing of a blood sample upon religious grounds shall be deemed to have refused unless the applicant also refuses to undergo drug and alcohol testing of a urine sample.

7. PROCEDURE FOR TESTING

a) **Notification Form** - Before requesting a job applicant to undergo drug and alcohol testing, the Employer shall provide the individual with a form on which to (1) acknowledge that the individual has seen a copy of the Employer's Pre-Employment Drug and Alcohol Testing Policy, and (2) indicate consent to undergo the drug and alcohol testing.

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b) **Testing** - Testing will be performed in accordance with the Minnesota Drug and Alcohol Testing in the Workplace Act.

8. **RIGHTS OF JOB APPLICANTS -** Within three (3) working days after receipt of the test result report from the testing laboratory, the Employer or the Employer's Agent shall inform a job applicant who has undergone drug and alcohol testing, in writing, of:

a) A negative test result on an initial screening test or of a negative or positive test result on a confirmatory test;

b) The right to request and receive from the Employer a copy of the test result report;

c) The right to request in writing within five (5) working days after notice of a positive test result a confirmatory retest of the original sample at the job applicant's expense at the original testing laboratory or another licensed testing laboratory. Within three (3) working days after receipt of the written notice from the job applicant, the Employer's Agent shall notify the original testing laboratory that the job applicant has requested the laboratory to conduct the confirmatory retest or transfer the sample to another licensed laboratory to conduct the confirmatory retest. The confirmatory retest must use the same drug or alcohol threshold detection levels as used in the original confirmatory test. If the confirmatory retest does not confirm the original positive test result, no adverse personnel action based on the original confirmatory test may be taken against the job applicant;

d) The right to submit information to the MRO within three (3) working days after notice of a positive test result to explain that result; to indicate any over-the-counter or prescription medications that the job applicant is currently taking or has recently taken; and to provide any other information relevant to the reliability of, or explanation for, a positive test result;

e) The right not to have a job offer withdrawn based on a positive test result from an initial screening test that has not been verified by a confirmatory test.

f) The right to appeal the withdrawal of a conditional job offer to the Minneapolis Civil Service Commission. Appeals to the Minneapolis Civil Service Commission must be made in writing within fifteen calendar days of the action or when the appellant would have reasonably been aware of the action. Appeals should be sent to Minneapolis Civil Service Commission c/o City of Minneapolis Human Resources Department, 250 South 4th Street – Room 100, Minneapolis, MN 55415.

9. **ACTION AFTER TEST -** The Employer will not discriminate against a job applicant solely on the basis of a positive test result from an initial screening test that has not been verified by a confirmatory test. Where there has been a positive test result in a confirmatory test/confirmatory retest, unless the job applicant has furnished a valid medical reason for the positive test result, the Employer will withdraw the job offer that was contingent on passing drug and alcohol testing. If the job offer is withdrawn based on a positive test result that has been verified by a confirmatory test and in any confirmatory retest, the Employer shall inform the applicant of the reason for the job withdrawal.

10. **DATA PRIVACY -** The purpose of collecting a body component sample of blood, breath, or urine is to test that sample for the presence of drugs and alcohol. A sample provided for drug and alcohol testing will not be tested for any other purpose. The name, initials and social security number of the person providing the sample may be requested so that the sample can be identified accurately but confidentially. Information about medications and other information relevant to the reliability of, or explanation for, a positive test result is requested to ensure that the

test is reliable and to determine whether there is a valid medical reason for any drug and alcohol in the sample. All data collected, including that in the notification form and the test report, is intended for use in determining the suitability of the applicant for employment. The job applicant may refuse to supply the requested data; however, refusal to supply the requested data may affect the job applicant's job offer.

A laboratory may only disclose to the Employer or the Employer's agent test result data regarding presence or absence of drugs, alcohol, or their metabolites in a sample tested. The Employer, the Employer's agent or laboratory may not disclose the test result reports and other information acquired in the drug and alcohol testing process to another employer or to a third party individual, governmental agency, or private organization without the written consent of the person tested, unless permitted by law, court order, or subpoena. Evidence of a positive test result on a confirmatory test may be: (1) used in an arbitration proceeding pursuant to a collective bargaining agreement, an administrative hearing under Minnesota Statutes, Chapter 43A or other applicable state or local law, or a judicial proceeding, provided that information is relevant to the hearing or proceeding; (2) disclosed to any federal agency or other unit of the United States government as required under federal law, regulation, or order, or in accordance with compliance requirements of a federal government contract; and (3) disclosed as required by law, court order, or subpoena. Positive test results may not be used as evidence in a criminal action against the employee or applicant tested.

11. DEFINITIONS

a) **Confirmatory Test and Confirmatory Retest** means a drug or alcohol test that uses a method of analysis allowed by the Minnesota Drug and Alcohol Testing in the Workplace Act to be used for such purposes.

b) **Drug** means a controlled substance as defined in Minnesota Statute §152.01, Subd. 4.

c) **Drug and Alcohol Testing**, **Drug or Alcohol Testing**, and **Drug or Alcohol Test** mean analysis of a body component sample approved according to the standards established by the Minnesota Drug and Alcohol Testing in the Workplace Act, for the purpose of measuring the presence or absence of drugs, alcohol, or their metabolites in the sample tested.

d) **Job Applicant** means a person, independent contractor, or person working for an independent contractor who applies to become an Employee of the Employer and includes a person who has received a job offer contingent on the person passing drug and alcohol testing. Job Applicant also includes, but is not limited to, an individual who applies for a temporary position, including a permit position.

"Job Applicant" does not include current employees of the City of Minneapolis.

e) **Employee** means a person who performs services for the City of Minneapolis for compensation, in whatever form, including any person directly engaged in the performance of work pursuant to the provisions of any federal grant or contract.

f) **Employer** means the City of Minneapolis acting through authorized hiring agents.

g) **Initial Screening Test** means a drug or alcohol test which uses a method of analysis allowed by the Minnesota Drug and Alcohol Testing in the Workplace Act to be used for such purposes. An alcohol breath test is not an initial screening test; however, an alcohol breath test may be used to determine if an initial screening test of urine or blood will be performed.

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h) **Positive Test Result** means a finding of the presence of alcohol, drugs or their metabolites in the sample tested in levels at or above the threshold detection levels as determined by the City of Minneapolis in accordance with the Minnesota Drug and Alcohol Testing in the Workplace Act.

i) **Valid Medical Reason** means (1) a written prescription, or an oral prescription reduced to writing, which satisfies the requisites of Minnesota Statute §152.11, and names the job applicant as the person for whose use it is intended; and (2) a drug prescribed, administered and dispensed in the course of professional practice by or under the direction and supervision of a licensed doctor, as described in Minnesota Statute §152.12; and (3) a drug used in accordance with the terms of the prescription. Use of any over-the-counter medication in accordance with the terms of the product's directions for use shall also constitute a valid medical reason.

j) **Controlled Substance** means a drug, substance, or immediate precursor in Schedules I through V of Minnesota Statute § 152.02.

k) **Federal Agency** or **Agency** means any United States executive department, military department, government corporation, government controlled corporation, any other establishment in the executive branch (including the Executive Office of the President), or any independent regulatory agency.

l) **Grant** means an award of financial assistance, including a cooperative agreement, in the form of money, or property in lieu of money, by a federal agency directly to a grantee. The term grant includes block grant and entitlement grant programs, whether or not exempted from coverage under the grants management government-wide regulation (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments). The term does not include technical assistance in the form of loans, loan guarantees, interest subsidies, insurance, or direct appropriations; or any Veterans' benefits to individuals, i.e., any benefit to Veterans, their families, or survivors by virtue of the service of a Veteran in the Armed Forces of the United States.

m) **Grantee** means a person who applies for or receives a grant directly from a federal agency.

n) **Individual** means a natural person.

o) **Valid Sample with a Certified Result** means a body component sample that may be measured for the presence or absence of drugs, alcohol, or their metabolites.

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CITY OF MINNEAPOLIS
NOTIFICATION AND CONSENT FORM FOR
PRE-EMPLOYMENT DRUG AND ALCOHOL TESTING
Data Practices Advisory: Minnesota Statute §13.04, Subd. 2

I acknowledge that I have seen the City of Minneapolis Pre-employment Drug and Alcohol Testing Policy. I hereby consent to undergo drug and alcohol testing pursuant to said policy, and I authorize the City of Minneapolis through its agents and employees to collect a breath and urine and/or blood sample from me for that purpose.

I understand that the procedure employed in this process will ensure the integrity of the sample and is designed to comply with medicolegal requirements.

I understand that the results of this drug testing may be discussed with and/or made available to the City of Minneapolis. I further understand that the results of this testing may affect my job offer as described in the policy.

The purpose of collecting a body component sample of breath, blood, or urine is to test that sample for the presence of drugs and alcohol. A sample provided for drug and alcohol testing will not be tested for any other purpose. The name, initials and social security number of the person providing the sample may be requested so that the sample can be identified accurately but confidentially. Information about medications and other information relevant to the reliability of, or explanation for, a positive test result is requested to ensure that the test is reliable and to determine whether there is a valid medical reason for any drug, alcohol, or their metabolites in the sample. All data collected, including that in the notification form and the test report, is intended for use in determining the suitability of the job applicant for employment. The job applicant may refuse to supply the requested data; however, refusal to supply the requested data may affect the job applicant's job offer.

A Medical Review Officer may only disclose to the City of Minneapolis test result data regarding presence or absence of drugs, alcohol, or their metabolites, in a sample tested. The City of Minneapolis or laboratory may not disclose the test result reports and other information acquired in the drug testing process to another employer or to a third party individual, governmental agency, or private organization without the written consent of the person tested, unless permitted by law or court order. Evidence of a positive test result on a confirmatory test may be: (1) used in an arbitration proceeding pursuant to a collective bargaining agreement, an administrative hearing under Minnesota Statutes, Chapter 43A or other applicable state or local law, or a judicial proceeding, provided that information is relevant to the hearing or proceeding; (2) disclosed to any federal agency or other unit of the United States government as required under federal law, regulation, or order, or in accordance with compliance requirements of a federal government contract; and (3) disclosed as required by law, court order, or subpoena. Positive test results may not be used as evidence in a criminal action against the applicant tested.

_____ _____
Name (Please Print or Type) Position Being Considered for and Department

_____ Date _____
Signature

_____
Witness (Hiring Authority – Print or Type)

_____ Date _____
Signature

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