

ARTICLE VII. DRUG AND ALCOHOL POLICY

Sec. 2-280. Policy statement.

It is the joint responsibility of the City of Laredo and its employees to ensure the public trust and safety, of all citizens and fellow employees. Furthermore, it is the obligation of all employees to perform public services while in optimal mental and physical condition in order to achieve maximum efficiency to provide the best possible service to the citizens of Laredo.

The City of Laredo recognizes that on-the-job use and being under the influence of drugs, alcohol, and/or inhalants, while on-duty time, results in serious and costly adverse occupational illness or injury. This may threaten the personal health, safety, and well-being of employees, co-workers, and the citizens of Laredo. It is with this raised consciousness and concern that the City of Laredo declares a prohibition of the following: possession of illegal drugs, on the job use and being under the influence of drugs, alcohol, and/or inhalants while on-duty time. The City of Laredo hereby establishes this policy with the intent to eliminate drug, alcohol, and/or inhalant abuse while on the job and hereby mandates a zero tolerance for such behavior.

Sec. 2-281. Purpose.

It is the purpose of both the City of Laredo Drug and Alcohol Policy and Procedures Manual (Resolution No. 95-R-068, adopted on April 17, 1995; as amended), ~~together with this Addendum~~, (Ordinance No. 97-O-020; as amended), to set forth the guidelines under which the City will aggressively enforce and prohibit ~~the employees~~ of the following while on the job: use of drugs, alcohol, and/or inhalants; and being under the influence of drugs, alcohol, and/or inhalants; and/or possession of illegal drugs, alcohol, and/or inhalants. Specifically, this policy addendum will identify, for purposes of guidance, the job-related behaviors which lead to reasonable suspicion that a violation of the City's policies may have occurred. Further, this policy ~~addendum~~ will set forth disciplinary actions that will result when a violation of the policy is confirmed by the City.

Sec. 2-282. Drug-Free Workplace Statement.

Prohibited Conduct

The unlawful manufacture, distribution, dispensing, possession, or use of controlled substances, alcohol, or inhalants in the workplace, while on duty, or while conducting City business is strictly prohibited.

Employee Responsibility

As a condition of employment with the City of Laredo, all employees must abide by the terms of this Drug-Free Workplace Statement and the City's Drug and Alcohol Policy. Employees must remain fit for duty and free from the effects of drugs, alcohol, or inhalants. Employees are also required to notify their supervisor or the Human Resources Department in writing of any conviction under a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction.

Consequences of Violation

Employees who violate this policy will be subject to disciplinary action, up to and including termination. First offenses for alcohol violations may result in referral to the Employee Assistance Program (EAP), mandatory treatment, and follow-up testing. Any subsequent violation, or any confirmed positive test, will result in immediate termination.

Self-Disclosure

Employees are strongly encouraged to voluntarily seek help for alcohol use concerns before job performance is affected. Self-disclosure made prior to testing or disciplinary action will be treated confidentially and may result in referral to the Employee Assistance Program (EAP) or an approved treatment provider outside the EAP. Compliance with treatment and return-to-duty testing is required to maintain employment.

Statement of Commitment

By this Statement, the City of Laredo affirms its commitment to a safe, healthy, and productive work environment for all employees and the citizens we serve. Compliance with this Drug-Free Workplace Statement is a condition of employment.

Sec. 2-2822-283. Scope.

This policy addendum together with the City of Laredo Drug and Alcohol Policy and Procedures Manual, applies to all current City of Laredo employees and all applicants for all city employment (hereinafter jointly referred to as "this policy" or "the policy"). In addition to all city employees and applicants for employment, this policy shall also apply to the following: co-op students, seasonal, part-time positions, interns and temporary employees. Staff hired through employment agencies shall adhere to this policy. This policy covers all drugs, alcohol, and/or inhalants, which could impair an employee's ability to effectively and safely perform their job functions. (Please note that when referring to the male gender such as "he", "his" or "him", throughout the policy, it shall be construed to include both male and female.)

Sec. 2-2832-284. Pre-employment, post job offer, promotions and random testing of safety sensitive positions. Pre-Employment Guidelines.

Drug and alcohol testing shall be required of all applicants receiving an offer of employment. Before an applicant submits to a drug and alcohol test, ~~he~~ they shall be notified of the testing procedure and consequences of testing positive or those that fail to submit within twenty-four (24) hours of testing notification will be considered testing positive.

The applicant or employee will be required to sign a Drug and Alcohol Test Release of Authorization and Consent Form (see Form DA3), acknowledging their understanding of the test, authorizing the diagnostic procedure and releasing the test results to the City of Laredo.

~~(a) Drug and alcohol testing requirement. The applicant or employee will be required to sign a drug and alcohol test release of authorization and consent form (see form DA3), acknowledging his understanding of the test, authorizing the diagnostic procedure and releasing the test results to the City of Laredo.~~

~~(a) (b) Pre-Employment Offer of employment to the selected applicant Compliance with this policy is a condition of employment for any selected applicant. Failure to sign any document required herein, and/or to undergo testing as required, is considered a violation of this policy and the job offer will be automatically withdrawn.~~

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- (1) Any applicant selected as a candidate for employment with the City or any employee transferred or promoted will be required to submit to pre-employment drug and alcohol testing. A verified negative result is a condition of employment.
 - (2) A selected applicant offered a job will be referred by the human resources department Human Resources Department to do a employee health and wellness division in order to coordinate the drug and alcohol test. If the applicant fails to be tested within twenty-four (24) hours from the date and time of contact by the Human Resources Department human resources department, then the applicant fails to meet the requirements for employment and the offer is automatically withdrawn.
 - (3) Any selected applicant includes those that need parental consent, such as minors who may fill a position with the City of Laredo to include the following: co-op student, part-time, interns, temporary employees and any staff hired through employment agencies shall also adhere to this policy. The consent will include both a form of picture identification by the parent or legal guardian, and a form of picture identification from the actual student applying for such position. Types of picture identifications that will be accepted by the City of Laredo include, but not limited to:
 - a. A State Issued Driver's License
 - b. A State issued Identification Card
 - c. A School Identification Card (only applicable to minors)
 - d. A Library Card (only applicable to minors)
 - e. A Passport/Passport card
 - f. Government Issued Identification
 - ~~(3) Any selected applicant whose tests results are verified positive for alcohol will have their job offer automatically withdrawn and will not be hired.~~
 - ~~(4) Any selected applicant who tests positive for drugs and fails to provide proper documentation that the drug was properly prescribed fails to meet the requirements for employment and the offer of employment is automatically withdrawn.~~
 - ~~(5) Any selected applicant who tests positive or has previously tested positive for drugs or alcohol during the pre-employment phase will not be hired for two (2) years from date of testing. Any future applicant must show written proof of rehabilitation in order to be reconsidered for employment.~~

(b) Pre-Employment Applicant

- (1) Any new applicant who tests positive for drugs or for alcohol above zero, and who fails to provide proper documentation that the drug was lawfully prescribed, will be considered as not meeting the requirements for employment, and the offer of employment will be automatically withdrawn.
- (2) A split specimen will not be offered for pre-employment testing, unless the applicant is being considered for a DOT position.
- (3) Applicants who test positive will be banned from City employment for a period of two (2) years from the date of the positive test.
- (4) Two (2) consecutive positive results or two consecutive no-shows will prohibit further consideration for employment.
- (5) Any selected applicant who fails to show up to perform their pre-employment drug and alcohol test or exceeded their twenty-four-hour (24) window will be disqualified for further consideration of that position.

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- (6) The applicant will be barred from City employment for a term of six (6) months from date of no-show; unless other arrangements are made by mutual agreement by the City and the applicant.
 - (7) An applicant that notifies the Human Resources Department within the twenty-four-hour (24) testing period that they will be declining the position will not be barred from applying for future positions.

(c) Current Employees (Promotions/Demotions/Transfers/Lateral Transfers)

- (1) For current employees who are applying for a new position within the City of Laredo, a positive test result for drugs or second positive alcohol test that will result in immediate termination.
- (2) Employees who test positive for alcohol for the first time will be referred out to mandatory Employee Assistant Program.
- (3) Employees who test positive will be banned from City employment for a period of two years from the date of the positive test.
- (4) Two consecutive positive results or two consecutive no-shows will prohibit further consideration for employment.
- (5) Current employees are eligible for a split specimen analysis if requested.
- (6) Any employee who tests positive for drugs or alcohol above 0.0, and fails to provide proper documentation that the drug was properly prescribed, fails to meet the requirements for employment and the offer of employment is automatically withdrawn and immediate termination.
- (7) If any specimen is diluted, spilled, or lost in transit, applicant/employee will be allowed to submit a new sample by the end of the next business day after being notified by the Human Resources Department.

~~(d)-(e)~~ Promotion or transfer to safety sensitive position by employee Safety Sensitive Positions by Employees.

All current City of Laredo employees in safety-sensitive functions/positions, as per policy definition, shall be subject to random drug and alcohol testing. Failure to comply will be considered a refusal. A positive drug and/or alcohol test is considered anything at or above 0.04. A refusal to test is considered a positive test result which can result in immediate termination.

- ~~(1) Drugs. An employee who is applying for a promotion or transfer to a safety sensitive position within the city and tests positive for drugs shall be terminated effective immediately.~~
- ~~(2) Alcohol. An employee who is applying for a promotion or transfer to a safety sensitive position who tests positive for alcohol will be immediately placed on leave without pay and will be referred by the employee health nurse (referred to as "EHN") to a substance abuse professional, under our employee assistance program (referred to as "EAP"), until certified to return to work. Thereafter, employee will be admitted under the EAP return to work policy and procedure. It is the department director's option to either fill the safety sensitive position with the next qualified applicant or hold the position open until the employee is certified to return to work at which time they will be retested for drugs and alcohol.~~

(d) ~~Random testing of safety sensitive positions. All persons in safety sensitive functions/positions, as per policy definition, shall be subject to random drug and alcohol testing.~~

Sec. ~~2-285~~ 2-284. Reasonable suspicion testing.

(a) *Applicability of reasonable suspicion testing.*

All employees covered herein will submit to a drug and alcohol test if the Immediate Respective Supervisor and or Department Director ~~city~~ has reasonable suspicion that the employee is under the influence of drugs, alcohol, and/or inhalants while on-duty time. ~~This testing procedure shall also apply to all co-op students, seasonal, part-time, interns, and any temporary employees hired through an employment agency.~~

(b) Reasonable suspicion assessment by management.

A department director or designee will perform an assessment of the employee by describing the incident in writing using form DA1—Reasonable Suspicion Observation (see ~~subsection (c) reasonable suspicion testing procedures~~ Reasonable Suspicion Testing Procedures outlined below). The department director or designee will also require an employee submit to a drug and alcohol test when there is "reasonable suspicion" based on observed objective facts that they are ~~he is~~ under the influence of alcohol, drugs, and/or inhalants while on-duty time. Reasonable suspicion may be evidenced by the employee's inability to perform the functions of the job or a reduction of the employee's ability to perform their duties safely. Objective facts may include, but are not limited to, any of the following physical symptoms or characteristics:

- (1) Glassy or bloodshot eyes.
- (2) Slurred speech.
- (3) Impaired physical coordination and poor reflexes.
- (4) Abnormal or erratic or bizarre behavior.
- (5) Unprovoked fighting or combative behavior.
- (6) Smell of alcohol on breath or smell of marijuana.
- (7) Unsteady gait.
- (8) Possession of drugs or alcohol.
- (9) Admission of intoxication or being under the influence of illegal drugs while on the job.
- (10) Direct observation of drug or alcohol use.

The decision to require an employee to submit to a drug and alcohol test will be made by at least two (2) management officials, including but not limited to the immediate supervisor and the department director or respective designees.

(c) Reasonable suspicion testing procedures.

- (1) Both the department director and supervisor, or their designees, will describe the incident in writing by completing form DA1—Reasonable Suspicion Observation, documenting the circumstances leading to the conclusion that a drug and/or alcohol test is necessary. Such documentation will include the date, time, place, and description of the incident including statements of witnesses, if applicable. The reasonable suspicion observation form is required to be completed by ~~both~~ the supervisor, and Department Director, or designee prior to the supervisor driving the employee to the testing facility.
- (2) After documenting the incident, the Department Director, and supervisor, or their designees will forward the forms to the EHN Public Health Department/Employee

Health & Wellness Division. The EHN Public Health Department/Employee Health & Wellness Division will note the paperwork and contact the City's contracted Drug & Alcohol testing facility Medical Review Officer (referred to as "MRO") to have the employee tested. The employee will be transported to the testing facility by the supervisor/designee. The EHN Public Health Department/Employee Health & Wellness Division will contact the ~~human resources director~~ Human Resources Director/designee to report the incident and provide a copy of the documented incident as soon as possible.

- ~~Any director, manager, supervisor or risk management personnel who suspect any city employee to be under the influence of drugs, alcohol, and/or inhalants shall notify the suspected employee's director and immediate supervisor to allow for reasonable suspicion assessment, using form DA1. If the department director does not concur with the assessment, the director may refer the employee, using form DA2—reasonable suspicion referral form, to the EHN/designee for further examination of the employee. The EHN will then make a recommendation using the same referral form.~~
- (3) ~~(4)~~ If the director/designee does not recommend testing of suspected employee, the reasons the employee was not tested must be thoroughly documented by the director/designee and forwarded to the ~~human resources department director~~ Human Resources Director and the City Manager.
 - (4) ~~(5)~~ Any employee who is reasonably suspected of drugs, alcohol, and/or inhalants abuse while working shall be tested for both drugs and alcohol and will not be allowed to operate any motor driven equipment owned/leased by the city until cleared to drive by the Medical Review Officer (MRO) and the EHN/designee Public Health Department/Employee Health & Wellness Division. An employee tested for alcohol under reasonable suspicion whose results are negative shall be allowed to return to work if both the drug and alcohol test results are negative. The conclusive drug test will also have to be confirmed negative by the MRO. Once confirmed negative by the MRO, the employee will be allowed to resume operation of motor driven equipment owned/leased by the city. Should the drug test indicate a positive test result, the employee shall not be allowed to work and will be subject to ~~immediate~~ termination. If cleared the employee will be reimbursed with Administrative leave through City Manager approval.
 - ~~(6) Any employee who informs their supervisor that he may have a drug, alcohol, and/or inhalant problem shall be immediately referred to the EHN. The employee will then be referred to the substance abuse professional for drug and alcohol testing. Such disclosure by the employee to any supervisor shall be kept confidential by the supervisor. The employee will be required to participate in the EAP. If the employee has already participated in the EAP and tests positive for drug and/or alcohol, they shall be terminated effective immediately; this shall apply to employees who fall under the guidelines of the department of transportation (DOT) and non-DOT employees who are under the EAP for recovery or rehabilitation purposes.~~
 - (5) ~~(7)~~ After drug and alcohol testing, the department director or supervisor or the designees will make suitable arrangements to have the employee transported home. If at any point in this process the employee becomes combative, the police department will be contacted.
 - (6) ~~(8)~~ Any evidence or pertinent materials such as the following ~~will~~ may be collected by Risk Management Sr. Safety & Loss Specialist/Safety Specialist and will be delivered

to the Police department for disposal: drugs, drug paraphernalia, and containers. Appropriate steps must be taken to secure the area to maintain integrity of evidence.

- (9) ~~If an employee's alcohol concentration is greater than zero (0) but less than 0.02 and he shows no signs of impairment then the employee will be referred to the employee health nurse for assessment and possible referral to the employee assistance program.~~

Sec. 2-286 2-285. Post-accident testing and procedures.

- (a) ~~Mandated reasons for post-accident drug and alcohol testing. It is the policy of this city that any employee involved in an accident, while on-duty time as defined, or while off-duty operating a city owned/leased vehicle, that results in or involves any of the following, will be subject to post accident testing: Any City of Laredo employee who is involved in a vehicle accident in a City-owned or personal vehicle conducting City business must immediately notify their supervisor of the accident and remain at the scene of the accident until the supervisor and or/designee arrives or provides other instructions.~~

City of Laredo employees shall be tested for alcohol and drugs when there is reasonable suspicion or when any of the following apply:

- (1) ~~Death or bodily injury regardless of who proximately caused the accident;~~
(2) ~~Any damage to property regardless of who proximately caused the accident;~~
(3) ~~The issuance of a citation for a moving violation to the city employee after an accident;~~
(4) ~~A work related injury resulting from negligence or fault of employee, or not abiding by safety rules;~~
(5) ~~A safety violation; or~~
(6) ~~Any act which contributes to an accident which results in injury and~~
(7) ~~Any property damage.~~
- (1) The vehicle collision/accident involved bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene; or
(2) If one or more vehicles incurred disabling damage as a result of the collision/accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle; or
(3) If the collision/accident involved the striking of a pedestrian; or
(4) If the collision/accident involved the loss of human life; or
(5) A citation is issued to the City employee; or
(6) If the collision/accident causes estimated property damage of more than \$1,000.00.

The decision to conduct post-accident drug and alcohol testing will be at the discretion of the Risk Management Sr. Safety & Loss Specialist/Safety Specialist, whom will determine whether testing is required based on the circumstances of the incident and will ensure that the appropriate accident report has been completed and submitted.

Any event involving any police or fire department civil service employee will be evaluated on a case by case basis by the police chief or fire chief, as applicable. Thereafter, the respective chief must report his/her findings to the city manager.

Employees will remain in non-driving status, subject to director's discretion, until results of the alcohol and drug screenings are reported to driver's manager/supervisor. Exceptions may be granted by the Department Director to prevent any operational disruptions, provided that the employee does not exhibit any signs of being under the influence of drugs or alcohol.

(b) *Post-accident procedures.*

- (1) The employee must notify their immediate supervisor to respond to the scene of the accident immediately after the accident. The immediate supervisor shall immediately call the risk management personnel to respond to the accident scene. The Risk Management staff will contact the licensed testing facility for testing purposes and will send the employee for drug and alcohol testing, if necessary. The supervisor/designee will determine who shall transport employee for post-accident testing.
- (2) The director/designee will be responsible for documenting and reporting any discrepancy and violation for not testing an employee involved in an accident, which relates to one (1) or more of the above indicated criteria. Risk Management personnel will immediately notify the supervisor's director, and the Human Resources director /designee. The Human Resources director/designee will notify the city manager as needed.
- ~~(3) Any employee who is seriously injured and who cannot be tested at the time of the accident shall, as soon as possible, sign all necessary medical authorization forms for withdrawal of blood or other bodily substances in order to test and release the test results to City of Laredo officials. Furthermore, any employee who is unconscious or otherwise incapable of executing such medical authority, shall be deemed to have given his consent to the city for withdrawal blood or other bodily substances in order to test and release the test results to City of Laredo officials.~~
- ~~(4) Nothing in this section shall be construed to require the delay of necessary medical attention for injured employee following an accident. This section does not prohibit a driver from leaving the scene of an accident for the period necessary to obtain emergency medical assistance in responding to the accident. Failure of management (i.e., directors, managers, supervisors) to follow the drug and alcohol test procedure pursuant to the aforementioned may result in disciplinary action.~~
- (3) ~~(5)~~ Any employee involved in an accident while on City business, outside the City limits but within a seventy five mile radius of the city, shall promptly contact their supervisor and risk management as soon as possible within thirty (30) minutes. If the accident occurs outside of the designated seventy five mile radius of the city, the employee shall immediately contact his immediate supervisor and the risk management division so that arrangements can be made for drug and alcohol testing of the employee at a testing facility to be designated by the medical review officer (MRO). Failure to do so will be subject to disciplinary action, up to and including termination.
- (4) ~~(6)~~ Any employee involved in an accident, while driving a city owned or leased vehicle to or from the employee's destination of city business, is considered to be within the course and scope of employment (on-duty time) regardless of the day and time traveled and will be subject to drug and alcohol testing. While awaiting results of the drug and alcohol test, the employee will not be allowed to drive a City of Laredo vehicle or to operate any city owned/leased motor driven equipment. Exceptions may be granted by the department director/designee in writing to prevent any operational disruptions, provided that the employee does not exhibit any signs of being under the influence of drugs or alcohol.

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- (5) ~~(7)~~ Any employee who is subject to post-accident testing *who leaves the scene of an accident before completing a required test, or who fails to* will remain readily available *for testing, will be considered to have refused to submit to testing and will be subject to immediate termination.* If the employee does not remain available, the employee shall be deemed to have refused to submit to testing, and will be subject to disciplinary action up to and including termination. If the employee fails to submit to testing for any reason then he will be referred to the EHN after documentation to activate the random testing program and will be referred to the employee assistance program for evaluation and further recommendation. Appropriate disciplinary action will be taken, up to and including termination.
- (6) ~~(8)~~ All drug and alcohol testing in this section will be in conformity with all testing and collection procedures in sections 2-286—2-288 of the City of Laredo Drug and Alcohol Policy and Procedures Manual; except that in addition thereto, employees testing positive for alcohol shall attend counseling through the employee assistance program, as required by the city. *the City of Laredo Drug and Alcohol Policy. All positions that require a Commercial Driver License (CDL), will be tested in accordance with the Department of Transportation (DOT) regulations and requirements.*
- (c) *Post-accident drug and alcohol testing procedures.*
- (1) The drug *and alcohol* test must be administered immediately following the accident. If for any reason the employee is not tested immediately following the accident ~~the city retains the right to require the employee be tested at any time thereafter to include the activation of random testing.~~ *and does not make themselves available within two (2) hours, it will be considered a refusal/positive test and will be treated as such and the employee shall be subject to disciplinary action up to and including termination. For DOT employees, if a test required by this section is not administered within eight (8) hours following the accident, the employer shall cease attempts to administer a drug and alcohol test, shall prepare a record stating the reasons the test was not promptly administered, and it will be considered a refusal if the employee did not make themselves available.*
- ~~(2)~~ The alcohol test must not exceed two (2) hours from the time of the accident; however, the city retains the right to test the employee within eight (8) hours from the time of the accident. If the employee is not tested within two (2) hours following the accident, then the supervisor and director shall be responsible for providing a written explanation and maintain on file a record of the reason the test was not administered within the two (2) hours.
- (2) ~~(3)~~ If an employee's alcohol concentration is *at or above 0.02 but below 0.04*, or greater then the employee will submit to an alcohol confirmation test according to the City of Laredo Drug and Alcohol Policy, and Procedures Manual, section 2-287. If the employee's alcohol concentration is at a detectable level above zero (0), but below 0.02 then the employee must call his *The employee must call their* immediate supervisor to make suitable arrangements for transportation. The employee will then be referred to the *Employee Health & Wellness Administrator/designee* EHN for initial assessment and referral to the *Employee Assistance Program* *only if it is their first offense*. Thereafter, the employee will be admitted under the EAP and follow proper policy and procedure.
- (3) ~~(4)~~ Additionally, if *If a* the drug and alcohol test is not administered immediately *within two (2) hours of a reported accident*, then the supervisor and *Department* Director of the employee shall be responsible for providing a written explanation to the *City*

Manager using form DA6—~~Post Accident Report Reasons for Not Administering Drug and Alcohol Test.~~ A copy of this record must be forwarded to the Human Resources department Director immediately. ~~The employee will then undergo evaluation by the EHN for referral to the employee assistance program for further recommendation.~~ The City Manager will determine whether disciplinary action will be taken against the employee.

- (5) ~~Furthermore, failure of the employee to undergo drug and alcohol testing when required, to include failing to be readily available and those not tested immediately, will result in activation of the random testing. All employees shall also be subject to disciplinary action up to and including termination should employee fail to comply with all disciplinary policies and procedures set here onto.~~
- (6) ~~An employee who is subject to post accident testing must refrain from consuming alcohol and abstain from consuming any medication either non-prescribed or prescribed or over the counter that may contain any drug or alcohol following the accident or until he submits to a drug and alcohol test. Any employee who fails to refrain from consuming drugs, non-prescribed drugs, or over the counter drugs containing alcohol, or alcohol shall be deemed to have not remained readily available and will be subject to disciplinary action up to and including termination to include activation into the random testing.~~

Sec. ~~2-287~~ 2-286. Split specimen drug analysis.

An employee who tests positive for drugs may request that the split specimen be analyzed at their expense.

(a) *Split specimen drug analysis procedure.*

- (1) An current employee requesting a split specimen drug analysis must submit the a written request in writing to the human resources director or EHN within seventy two (72) hours of the employee's notification of the original positive test results using form DA5—request for second drug analysis of split specimen Human Resources Director or Employee Health and Wellness Administrator/designee by the end of the next business day following notification of the original positive test result, using Form DA5 – Request for Second Drug Analysis of Split Specimen.
- (2) While awaiting results of the split specimen drug analysis, the employee will not be allowed to return to work, however, the employee will be placed on leave without pay until the results are received.
- (3) If the results are negative, the city will reimburse the employee for the documented expenses limited to the following: the cost of the test and time lost as a result of the false positive results (paid leave).

(Ord. No. 2008-O-011, § VII, 1-7-08)

Sec. ~~2-288~~ 2-287. Training.

Communication and training of the policy to the department directors and division managers is the responsibility of the Employee Health & Wellness division along with the contracted Drug and Alcohol provider and/or Employee Assistance Program ~~contracted substance abuse~~

professional under the EAP. Communication of the policy to the employees is the responsibility of management.

- (a) *Drug and alcohol training information.* The City of Laredo shall provide training programs and necessary materials which include the identity of the person designated by the city to address at minimum the following:
- (1) Answer all questions related to this policy;
 - (2) Answer all questions related to reasonable suspicion;
 - (3) The categories of ~~employees~~ employee's subject to this policy;
 - (4) Information about the safety-sensitive positions ~~functions performed by the drivers;~~
 - (5) Information concerning prohibited conduct;
 - (6) The circumstances under which the testing will occur;
 - (7) The procedures used when conducting testing;
 - (8) An explanation of what constitutes a refusal to submit to a test;
 - (9) The consequences for having failed either a drug or alcohol test; and
 - (10) Information concerning the effects of drugs, alcohol, and/or inhalants on an individual.
- (b) *Required training for directors, managers and supervisors.* Directors, managers, supervisors or their designees ~~designated to determine whether~~ will determine reasonable suspicion exists must, at a minimum, receive once a year at least no less than sixty (60) minutes each of training on drug and alcohol misuse and an additional ~~sixty (60) minutes of training on alcohol use.~~ This training requirement may be adjusted at the discretion of the city, to require more training, but in no event will the requirement be less than sixty (60) minutes. The training will cover the physical, behavioral, speech, and performance indicators of suspected drug and alcohol misuse.
- (c) *Consent, compliance, and understanding of the drug and alcohol policy.* The City of Laredo will require each employee to sign a statement certifying that they have been informed and understand and agree to comply with the City of Laredo's Drug and Alcohol Policy using form DA4—acknowledgement of receipt of drug and alcohol policy. Copies of the policy will be available upon request by the employee and are readily available on the Human Resources website.

Sec. ~~2-289~~ 2-288. Prohibited drug and alcohol related conduct.

- (a) *Violations of city policy concerning drug or alcohol related conduct.*
- (1) It is a violation of city policy to consume, receive, trade, or offer for sale drugs or alcohol while on-duty. The term "on-duty" includes, but is not limited to: lunch, authorized breaks, and during any work related functions whether in or out of town, unless an event is sanctioned by the City.
 - (2) The sale of alcohol may be expressly authorized and permitted in accordance with the Texas Alcoholic Beverage Commission (TABC) rules and regulations and the City of Laredo's policies.
 - (3) An employee who is off-duty shall not consume alcohol on city premises (which include parking lots and buildings). This prohibition does not apply to employees

consuming, within moderation, or serving alcoholic beverages at city sponsored functions or events.

- (4) It is a violation of city policy to purchase or consume alcoholic beverages while in a city uniform regardless of duty status (on-duty or off-duty).
 - (5) An employee who has an alcohol concentration at or greater than 0.02 but less than 0.04 shall not be permitted to return to work until the employee has undergone a return to duty test for drugs and alcohol which must have negative results for both substances and have initiated the mandatory Employee Assistance Program process. An employee who tests at an alcohol concentration of 0.04 or above will be terminated immediately and will be reported to the Clearinghouse as needed.
- (b) *Notification of citations, arrests or convictions.* Employees must notify the department director, in writing, of any citation received on duty or off duty, arrest for, or conviction under any criminal drug or alcohol related statute of driving while intoxicated statute, no later than five (5) calendar days from such receipt, if their job entails driving any City of Laredo vehicle or operating any City of Laredo motor driven equipment. All employees will be subjected to have their driving records reviewed prior to having access to city of Laredo vehicles. All employees that have if an employee, whose job entails driving a City of Laredo vehicle, has been arrested or convicted of violating any drug or alcohol related statute will be subject for to referral by the Employee Health and Wellness Administrator/designee to the city's EAP City's Employee Assistance Program if notification is received that they have been arrested/convicted of any violation to a drug or alcohol related statute. Employees who fail to notify the city City of any citations, arrests or convictions pursuant to this paragraph shall be subject to disciplinary action up to and including termination.
- (c) *Controlled Substances/Drugs.* The use of legally obtained prescriptions of controlled substances from a physician licensed to practice medicine in the United States and filled by a U. S. pharmacy are allowed. Taking more than the prescribed dosage or using a prescribed medication in a way not directed by a United States healthcare provider is considered misuse and can lead to disciplinary action, up to and including termination. Texas law regulates the prescription and use of controlled substances. Exceeding a prescribed dosage without authorization may be considered illegal use of a controlled substance, even if the medication was initially prescribed.
- (1) Use, possession, manufacture, distribution, or sale of illegal drugs or drug paraphernalia, at any time.
 - (2) Distribution or sale of authorized controlled substances, at any time.
 - (3) Having an illegal drug present in his/her body, at any time.
 - (4) Unauthorized use or possession of alcohol while on any City premises or worksite and/or during working hours, including lunch, break times and while scheduled on-call.
 - (5) Being under the influence of alcohol while on any City premises or worksite and/or during working hours, including lunch, break times and while scheduled on-call.
 - (6) Unauthorized storing of any illegal drug, drug paraphernalia, or alcohol in a locker, desk, vehicle, equipment, or any other City premises or worksites.
 - (7) Switching or adulterating any breath or urine specimen submitted for testing.
 - (8) Failing to submit or refusing to submit a specimen for testing when required under this policy.
 - (9) Failure to meet requirements of any mandatory drug and/or alcohol treatment or counseling program in which an employee is enrolled.

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- (10) Failure to notify the Department Director or Director of Human Resources in writing of any arrest, conviction, probation, deferred adjudication or pre-trial diversion under any criminal drug statute at the beginning of the next work shift after such event or finding.
 - (11) Taking, using or being under the influence of a prescribed medication in a manner or dosage other than as prescribed as per MRO review.
 - (12) Refusing to sign a statement agreeing to comply with the City's Drug and Alcohol Policy.
 - (13) Reporting for duty while on "on call" status under the influence of alcohol or with an illegal drug present in his/her body and/or the inability to report to work as required in a condition to safely and fully perform assigned duties due to alcohol or drug use.
 - (14) Failing to remain compliant when on mandatory counseling or Employee Assistance Program.
 - (15) Having a verified positive drug test administered under this policy.
 - (16) Use, possess or have within their control a controlled substance, absent a valid, personal prescription from a U.S pharmacy and U.S physician.

Sec. 2-289. Prohibited prescription and controlled substance related conduct.

- (a) ~~Legally obtained prescription for controlled substances/drugs. The use of legally obtained prescriptions from a physician licensed to practice medicine in the United States or over-the-counter drugs are allowed based on the following conditions:~~
- (1) ~~Employees taking physician prescribed drugs, as per definition in this policy, or over-the-counter drugs which may affect job performance must notify their supervisor prior to beginning their work shifts for referral to the EHN/designee.~~
 - (2) ~~In the case of physician prescribed medications for a controlled substance, the supervisor shall refer the employee and the employee's personal medical health information to the EHN/designee for safekeeping. The employee will provide all documentation upon request (i.e. the prescription bottle and/or physician's statement) for verification purposes.~~
 - (3) ~~If the drug is a controlled substance, then the prescribed drug must be issued in writing by a physician licensed to practice medicine in the United States and must be filled by a U.S. pharmacy.~~
 - (4) ~~The City of Laredo will investigate all written prescriptions for a controlled substance that originate from a physician licensed to practice medicine in Mexico and/or from a pharmacy in Mexico. Such prescriptions for a controlled substance will not be accepted and each occurrence will be investigated on a case by case basis. The employee must provide all needed documentation and may be further evaluated by the city's designated contracted physician, employee assistance program and our contracted MRO for further recommendation.~~
 - (5) ~~The department director or designee is authorized to allow and/or mandate the employee to use their sick leave if the EHN or the employee health nurse's designee considers the use of said legally obtained prescription or over-the-counter drug to be a hazard to the safety of any of the following: employee, co-workers, members of the public, or city property.~~
- (b) ~~Notification of citations, arrests or convictions. Employees must notify the city in writing of any (Class C) citation received, arrest for or conviction under any criminal drug statute, no later than five (5) calendar days from such receipt, if their job entails driving any vehicle or operating any motor driven equipment. All employees will be subjected to having their driving records reviewed prior to having access to City of Laredo vehicles. All employees that have~~

been arrested or convicted of violating any drug statute will be subject to referral by the EHN to the city's EAP if notification is received that they have been arrested/convicted of any violation to drug statute. Employees who fail to notify the city of any citations, arrests or convictions pursuant to this paragraph shall be subject to disciplinary action up to and including termination.

~~Sec. 2-290. Disciplinary actions for positive drug and alcohol test.~~

~~(a) Disciplinary action for DOT and non-DOT employees.~~

- ~~(1) All employees who are covered under the specific federal rules and regulations of the U. S. Department of Transportation ("DOT"), including the Omnibus Transportation Employee Testing Act of 1991 that applies to safety sensitive positions, are referred to as DOT employees. DOT regulations apply to those employees who operate commercial motor vehicles and perform safety sensitive functions. All non-DOT employees will be tested under the City of Laredo Drug and Alcohol Policy. Any employee whose alcohol concentration is at a detectable level above zero (0), but less than 0.02, will report to the EHN for assessment. A referral will also be made for at least one (1) session in the EAP. If it is determined by the EAP that the employee is in need of further counseling then the employee must abide as a condition of continued employment with the City of Laredo Policy and Procedure for EAP. All disciplinary action will apply to those employees under DOT guidelines noted by the rules and regulations that govern them (see City of Laredo Drug and Alcohol Policy and Procedures Manual, sections 2-294, and 2-292).~~
- ~~(2) An employee (DOT or non-DOT) who is tested under the reasonable suspicion or post accident testing requirement of this policy and whose alcohol concentration is more than 0.02, but less than 0.04, shall take a confirmation test and be counseled by the EHN for referral to the EAP as noted above.~~
- ~~(3) An employee who tests 0.02 or more for alcohol concentration is considered positive and will be immediately placed on leave without pay and will be immediately referred to a substance abuse professional (SAP) using form DA7. In addition, the employee may be suspended for up to five (5) days without pay.~~
- ~~(4) An employee who is tested under the reasonable suspicion or post accident testing requirement of this policy and whose test results are verified positive for illegal drugs will be terminated.~~
- ~~(5) An employee who is currently under the EAP program or has been previously identified as a patient who has received treatment and whose follow up random test is reported with a detection level above zero (0) will be terminated.~~

~~Sec. 2-2912-290. Employee assistance program.~~

An employee who thinks he they may have a drug, alcohol, and/or inhalant problem shall at anytime any time have the right to voluntarily consult with the EHN Employee Health and Wellness Administrator/designee to seek confidential referral assistance (see form DA7).

~~(a) Voluntary assistance for treatment.~~

- ~~(1) Employees who voluntarily seek referral assistance for alcohol will be allowed to enter a drug, alcohol, and/or inhalant an alcohol abuse treatment program one (1) time without endangering their jobs, provided they follow all prescribed treatment programs.~~

If the employee fails to obtain treatment or if any subsequent test (random, reasonable suspicion, ~~post-accident~~ post-accident, or any other test) is confirmed positive for drugs and/or alcohol, the employee will be terminated.

- (2) Some of the costs of the treatment may be covered by the City's health insurance plan.
- (3) Employees are encouraged to voluntarily seek assistance in dealing with ~~drug~~, alcohol, and/or ~~inhalant~~ abuse problems. Please note the following:
 - a. An initial request for assistance for a ~~drug~~, alcohol, and/or ~~inhalant~~ problem will not in itself be considered grounds for disciplinary action. However, any subsequent request will be grounds for disciplinary action up to and including termination.
 - b. Employees shall remain responsible for their on-duty time, conduct and work performance.
- (4) Any employee who voluntarily admits to ~~drug~~, alcohol, and/or ~~inhalant~~ use before it impairs his their performance or conduct and jeopardizes his their employment shall be required to be evaluated by the City's Employee Assistance Program ~~city's designated substance abuse professional~~. The following is required:
 - a. The employee must obtain and successfully complete, as a condition of continued employment, all recommendations such as treatment or rehabilitation ordered by the substance abuse professional/License Professional Counselor.
- (5) Employees undergoing treatment for ~~drug and/or alcohol~~ will be required to use their own leave concurrent with Family Medical Leave Act as follows:
 - a. Sick leave;
 - b. Compensatory time;
 - c. Vacation leave;
 - d. Leave without pay;
 - e. Serious illness ~~pool~~ Illness Program (SIP);
 - f. Donation Leave (If applicable)
- (6) An employee may be eligible for leave of absence without pay, if all paid leave has been exhausted in compliance with the City of Laredo Leave Policies and Return to Work Policies. ~~The leave is to be for a minimum of thirty (30) days, during which time the substance abuse professional is required to maintain contact with the EHN to assure that the employee is participating in the city approved employee assistance program. This thirty day period may be extended only by the written orders of the attending physician, and the extension may not be for more than an additional thirty (30) days.~~
- (7) Any employee who self-discloses to their supervisor, the Health department, or the Human Resources department that they may have a drug, alcohol, and/or inhalant problem shall be immediately referred to the Employee Health and Wellness Administrator/designee. The employee will then be referred to a Substance Abuse Professional for alcohol treatment. Such disclosure by the employee shall be kept confidential. The employee will be required to participate in the Employee Assistance

Program. If the employee has already participated in the Employee Assistance Program and tests positive for drugs and/or alcohol, anything above 0.0, they shall be terminated effective immediately; this shall apply to employees who fall under the guidelines of the Department of Transportation (DOT) and Non-DOT employees who are under the EAP for recovery or rehabilitation purposes.

(b) *Return to duty and follow-up testing.* In addition, the employee

For voluntary self-disclosure, an employee shall be required to submit to a return to duty testing. Follow-up drug and alcohol testing for those employees admitted into an employee assistance program can will be conducted at any time without reasonable suspicion and shall not exceed sixty (60) twelve months from the date of the employee's return-to-duty, unless the employee is a DOT employee, then they could be subject to follow-up testing for up to sixty (60) months. The substance abuse professional/Licensed Professional Counselor may terminate the requirement for follow-up testing at any time, after six (6) tests have been administered, if they the SAP determines that such testing is no longer necessary.

(1) *Return-to-duty testing:* The City of Laredo shall ensure that before an employee returns to duty, after engaging in conduct prohibited by this policy concerning alcohol, the employee shall undergo a return-to-duty test for drugs and alcohol which must have negative results for both substances. An employee who tests positive for either drugs or alcohol will be terminated immediately.

b. ~~The City of Laredo shall direct the employee to undergo return to duty for both drugs and alcohol, if the substance abuse professional determines that return to duty and follow up testing for both alcohol and drug use is necessary.~~

~~(2) *Follow-up testing.* In the event, following a determination by the substance abuse professional that an employee is in need of assistance in resolving problems associated with drug and/or alcohol, the employee will be subject to unannounced follow-up drug and alcohol testing as directed by a MRO, in accordance with the City of Laredo Drug and Alcohol Policy and Procedures Manual (see section(s) related to testing program for safety sensitive positions).~~

(Ord. No. 2008-O-011, § XII, 1-7-08)

Sec. ~~2-292~~ 2-291. Inspections.

(a) *Authority for inspections and searches.*

(1) All employees of the City of Laredo are hereby advised that the City of Laredo maintains and reserves its authority to inspect, remove, or allow the inspection and removal of any personal items, office furniture and or fixtures or anything else found in any office, room, or other location or city property based on reasonable suspicion as defined herein, for drugs, alcohol, and/or inhalant paraphernalia.

(2) All such searches must be authorized and conducted by people under the direction of the Ccity Manager or their his designee, unless it is an official law enforcement investigation.

(3) A search does not imply an accusation of any wrongdoing.

(Ord. No. 2008-O-011, § XIII, 1-7-08)

Sec. 2-293 2-292. Confidentiality.

(a) *Records.*

- (1) Except as otherwise provided in subsection (4) below, the City of Laredo ~~EHN~~ Employee Health and Wellness Administrator/designee shall keep information obtained in conjunction with the drug and alcohol test confidential. However, as per policy, the ~~EHN~~ Employee Health and Wellness Administrator/designee shall immediately disclose the results of a positive drug and/or alcohol test to the director of the human resources department. For DOT/clearinghouse purposes, the Risk Management Manager will also be notified.
- (2) City employees whose drug and alcohol test results are confirmed positive will be informed of the screening results in a confidential manner by the ~~MRO~~ Medical Review Officer. The employee will be given the opportunity to discuss the test results and reasons for the positive results in conjunction with potential consequences.
- ~~(3) All positive drug and alcohol test results will not be filed with the employee's official personnel file. All positive test results will be kept secured and locked, in a separate file, to which only the EHN/Designee will have a key and will not be discussed with anyone except human resources director on a need to know basis.~~
- (3) Disclosures without employee consent may also occur when:
 - a. ~~the~~ The information is compelled by law or by judicial or administrative process information of a regular or civil service employee may be released by the City if the Texas Attorney General determines it must be released under the Texas Open Records Act;
 - b. ~~the~~ The information has been placed at issue in a formal dispute between the employer and employee;
 - a. ~~the~~ The information is needed by medical personnel for the diagnosis of treatment of the employee who is unable or refuses to authorize disclosure;
 - b. ~~all~~ All other disclosures, to include open records, will need a prior written approval by the employee in question, as per this policy;
- (4) Any director, manager, or supervisor who is informed by an employee that he/she may have a drug, alcohol, and/or inhalant problem shall keep information confidential and shall immediately refer the employee to the ~~EHN~~ Employee Health and Wellness Administrator/designee.

(Ord. No. 2008-O-011, § XIV, 1-7-08)

Sec. 2-294 2-293. Drug and alcohol policy violations.

The city is dedicated to assuring a fair and equitable application of the City of Laredo Drug and Alcohol Policy ~~and this policy Addendum.~~

- (a) *Directors, supervisors and managers.* All directors, supervisors, and managers shall be subject to disciplinary action, up to and including termination if:
- (1) ~~he~~ they knowingly disregards the requirements of this policy;
 - (2) ~~he is~~ they are found to deliberately misuse the policy in regard to subordinates; or

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- (3) ~~he violates~~ they violate the confidentiality standards of this policy;
 - (4) ~~he~~ they knowingly or intentionally delays the testing of or fails to take any action which contributes to the delay of the testing requirements of this policy.
- (b) *Employee*. Violations of any provisions of the drug and alcohol policy, ~~or this addendum~~, will subject an employee to disciplinary action, up to and including termination.
- (1) ~~Further, it~~ shall be a violation of this policy if an employee is arrested either on-duty time or off-duty time for a drug, alcohol, and/or inhalant related crime that is classified by the Texas Penal Code as a felony or a ~~class~~ Class B misdemeanor, or greater. See ~~sections 2-288 and 2-289~~.

~~Failure of the employee to test for both drug and alcohol when required, including failure to be readily available and those not tested immediately as per policy, will result in activation of the random testing. Any employee who thereby fails to comply with all policies and procedures of this policy contained herein, shall be subject to disciplinary action up to and including termination and activation of random testing. The city's human resources department will notify all applicable federal agencies in writing within ten (10) calendar days after receiving written notice of an employee that has been convicted for a violation of a criminal drug statute that has occurred in the workplace, (i.e., possession of drugs).~~

- (2) All employees who are covered under the specific federal rules and regulations of the U. S. Department of Transportation ("DOT"), including the Omnibus Transportation Employee Testing Act of 1991 that applies to safety sensitive positions, are referred to as DOT employees. DOT regulations apply to those employees who operate commercial motor vehicles and perform safety sensitive functions. If it is determined by the Employee Assistance Program that the employee needs further counseling, then the employee must abide as a condition of continued employment with the City of Laredo. All disciplinary action will apply to those employees under DOT guidelines noted by the rules and regulations that govern them. Positive alcohol of 0.04 and above and drug screening results will be reported to DOT for existing City of Laredo CDL employees and CDL Pre-hires.
- (3) The Drug and Alcohol Clearinghouse is an online database established by the Federal Motor Carrier Safety Administration (FMCSA) to enhance safety on the nation's roadways. This database provides employers and government agencies with real-time access to information regarding commercial driver's license (CDL) holders' drug and alcohol program violations, helping ensure that drivers are compliant with the necessary safety regulations. The City of Laredo will query the Clearinghouse for both current and prospective employees to ensure they are not prohibited from performing safety-sensitive functions due to unresolved drug and alcohol program violations. Employers are also required to report any violations to the Clearinghouse.
- (4) Failure to grant the City of Laredo permission to run a query will be considered a refusal and, therefore, a violation of the City of Laredo's Drug and Alcohol Policy. This will be subject to disciplinary action, up to and including termination.
- (5) It is the employees' responsibility to notify their Department Director if a violation occurred outside the scope of employment for the City, no later than 5 calendar days upon receipt. Employees are expected to follow all guidelines and regulations set by the City in their professional capacity. However, if any actions are taken outside of their official duties that could be considered a violation, it is essential that the employee notify the City promptly to address the situation appropriately.

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- (6) An employee who tests at or greater than 0.02 but less than 0.04 for alcohol concentration will be immediately placed on leave without pay and will be immediately referred to a Substance Abuse Professional (SAP)/Licensed Professional Counselor or using Form DA7. In addition, the employee may be suspended for up to five (5) days without pay.
- (7) An employee who is currently under the Employee Assistance Program or has been previously identified as a patient who has received treatment and whose follow up random test is reported with a detection level above zero (0) will be terminated.
- (8) Positive alcohol (anything at or above 0.0) and drug screening results for all pre-hires will result in a withdrawal of employment offer.
- (9) Any previous employee who was found to be in possession of drugs, alcohol, and/or inhalant paraphernalia while on the job, or who either resigned or was terminated after testing positive for drugs, or alcohol, and/or inhalant paraphernalia as defined in this policy, shall not be considered for employment for the a two-year period from the date of resignation/termination. Furthermore, such disciplinary process shall also be implemented on any previous employee who violates sections 2-288 and 2-289 of this article. Thereafter, the individual may be considered for employment only after providing documentation from a licensed substance abuse professional, indicating that the individual has completed a rehabilitation program.
- (c) On-Call and Stand-By Employees: Employees scheduled to be on-call or stand-by are expected to be fit for duty upon reporting to work. Any employee scheduled to be on-call or stand-by who is called out is subject to the provisions of this policy.
- (1) An employee not scheduled to be on stand-by who is called to duty and is impaired or under the influence of drugs, alcohol, and/or inhalants, whether or not legally prescribed, must so advise their supervisor and will not be required to report to work.
- (2) An employee, who is called to duty and who reports to work, but fails to notify their supervisor that they are under the influence of drugs, alcohol, and/or inhalants whether or not legally prescribed, that may affect job performance, will be subject to disciplinary action, up to and including termination. All drug and alcohol testing disciplinary action will apply as noted in this Policy.

(Ord. No. 2008-O-011, § XV, 1-7-08)

Sec. 2-295 ~~2-294~~. Refusal to comply with procedures mandated by this policy.

- (a) *Working relationship between the city and employee.* The city hereby mandates that all employees comply with this policy, as a condition of continued employment. Continued employment after adoption of this policy unconditionally constitutes acceptance of this policy. Failure to comply with the requirements of this policy constitutes insubordination, with consequences up to and including termination.
- (1) Any conduct resulting in obstruction of the testing policy is considered a violation of this policy. It includes but is not limited to the following:
- a. Failing to provide, within seventy-two (72) hours of request, sufficient information regarding a legally obtained prescription from an accredited physician licensed to practice medicine in the United States; and filled by a U.S pharmacy;

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- b. Refusal to immediately submit to any type of required drug and alcohol testing *including dilute, spilled or lost in transit* covered by this policy;
 - c. Refusal to report to the licensed testing facility on the day and time the employee was told to report;
 - d. Refusal to sign or complete any documents required by the City of Laredo or by the licensed testing facility;
 - e. If employee attempts any form of tampering with a specimen;
 - f. Failing to remain readily available for testing after an accident, when applicable under this policy;
 - g. Failing to provide adequate breath or urine for testing purposes without a valid medical explanation;
 - h. Failing to abide by the contract set up between the employee and the employee assistance program (EAP) or substance abuse professional; or
 - i. Failing to immediately report an accident involving a city vehicle.

(Ord. No. 2008-O-011, § XVI, 1-7-08)

~~Sec. 2-296. Disciplinary action for on-call and stand-by employees.~~

- ~~(a) *Fit for duty standard.* Employees scheduled to be on-call or stand-by are expected to be fit for duty upon reporting to work. Any employee scheduled to be on-call or stand-by who is called-out is subject to the provisions of this policy.~~
- ~~(b) *Duty to advise.* An employee not scheduled to be on stand-by who is called to duty and is impaired or under the influence of drugs, alcohol, and/or inhalants, whether or not legally prescribed, must so advise his supervisor and will not be required to report to work.~~
- ~~(c) *Violation by on-call or stand-by employees.* An employee, who is called to duty and who reports to work, but fails to notify his supervisor that he is under the influence of drugs, alcohol, and/or inhalants whether or not legally prescribed, that may affect job performance, will be subject to disciplinary action, up to and including termination. All drug and alcohol testing disciplinary action will apply as noted in section 2-294.~~

~~(Ord. No. 2008-O-011, § XVII, 1-7-08)~~

Sec. 2-297 2-295. Special provisions.

- (a) *Possession related to police and fire investigators.*
 - (1) Any sworn police personnel or fire investigator required to be in possession of drugs, alcohol, and/or inhalants while on the job in the course and scope of their employment will be exempt from the provisions of this policy pertaining to possession (on their person or in their vehicle) of drugs, alcohol, and/or inhalants.
 - (2) It is the City of Laredo's intention to comply fully with federal law and regulations governing drug and alcohol testing. In the event federal and state regulations are amended, this policy and the applicable terms, conditions and/or requirements of this policy shall be deemed to have been amended automatically at that time in order to reflect and be consistent with said regulations.

(3) All testing methodology and specimen collection will be in accordance with the City of Laredo Drug and Alcohol Policy and Procedures Manual.

(b) *Civil service (police and fire departments only).*

~~(1) Until such time as the respective unions accept the terms of this article, police and fire department civil service~~ Police and Fire Civil Service employees shall remain subject to all provisions of the City of Laredo's 1995 Drug and Alcohol Policy and its addendum.

(Ord. No. 2008-O-011, § XVIII, 1-7-08)

Sec. ~~2-298~~ 2-296. Reservation of rights.

The city reserves the right to interpret, amend, or rescind this policy in whole or in part without notice. Nothing contained in this policy shall be construed as creating or constituting a contract with any employee, expressed or implied.

(Ord. No. 2008-O-011, § XIX, 1-7-08)

Sec. ~~2-299~~ 2-297. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcohol Concentration (Or Content). The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under 49 CFR, Part 382.

Alcohol or alcoholic beverages. The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl and isopropyl alcohol.

Alcohol use. The consumption of any beverage mixture, or preparation, including any medication containing alcohol.

Applicant. ~~Anyone who applies for a position available within the City of Laredo.~~ Any individual who has applied for employment with the municipality, including full-time, part-time, seasonal, interns, co-op positions, temporary employees, and contracted staffing employees, and is subject to drug and alcohol screening as part of the hiring process. This includes individuals applying for safety-sensitive positions as defined by applicable federal, state, or municipal regulations.

Being under the influence of alcohol. Having a breath alcohol concentration of 0.04 or greater.

City Premises or Worksites. Includes all property, buildings, structures, job sites, parking lots, means of transportation, motor vehicles, equipment, and machinery owned, leased, or otherwise used for City business. An employee's personal vehicle is also included in this definition when being used to conduct City business or when parked on City premises or worksites during an employee's working hours, including lunch and break times.

Controlled substance. ~~A drug or other substance or immediate precursor, included schedule I, II, III, IV, or V of the Federal Controlled Substances Act which is Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and as amended.~~ Any drug, substance, or immediate precursor listed in Schedules I through V of the Federal Controlled Substances Act (21 U.S.C. § 801 et seq.) or the Texas Controlled Substances Act (Chapter 481, Texas Health and Safety Code), as amended. Controlled substances include, but are not

limited to, amphetamines, marijuana, barbiturates, methadone, benzodiazepines, methaqualone, morphine, codeine, and anabolic steroids. A controlled substance is considered unauthorized under this policy unless it is lawfully prescribed to the employee by a physician licensed to practice medicine in the United States and used strictly in accordance with that prescription.

Criminal drug statute. A federal or state criminal statute involving the manufacture, distribution, dispensing, use or possession of any controlled substance.

Department director. A person appointed by the city manager who is responsible for the administration of a department.

Designee. One who has been appointed in writing the responsibility to carry out an action item by the city manager or department director.

DOT employees. Those employees to which Department of Transportation (DOT) regulations apply, and who perform safety sensitive functions or who operate commercial motor vehicles (CMVs), as defined herein and in the City of Laredo Drug and Alcohol Policy and Procedures Manual.

Driver. Any employee who operates a motor vehicle that is a city-owned/leased vehicle, while conducting city business, at the direction of or with the consent of the city. This includes, but is not limited to: full time, regularly employed drivers; casual, intermittent or occasional drivers; or contractors who are either directly employed by or under lease to the city.

Driving while intoxicated (D.W.I.). Driving or operating a motor vehicle in a public place while intoxicated.

Drugs. A substance that can cause addiction, a marked change in mental or physical status, or psychological/physical dependency that could affect job performance; this may include any illegal drugs, controlled substances, inhalants, or nonprescription drugs with abuse potential, legally/illegally prescribed drugs. Illegal drugs include prescription drugs prescribed for someone other than employee.

Drug paraphernalia. Any item used for the preparation, administering, transferring or storing of a controlled substance and/or inhalant, or any item designed for such use.

Drug Testing: For the purposes of the City of Laredo Drug and Alcohol Policy, "drug testing" refers exclusively to urine testing for drugs. Other testing methods, such as hair follicle analysis, blood testing, or alternative specimen collection, are not authorized under this policy.

Employee. A person employed by the City of Laredo *in the following capacities: full-time, part-time, seasonal, interns, co-op positions, temporary employees, and contracted staffing employees, unless they fall outside of policy.*

Employee assistance program (EAP). A program provided by the city to its employees and dependents, which services such as psychological counseling and social support.

~~*Employee health nurse (EHN)*~~ *Employee Health and Wellness Administrator. The Administrator* Registered nurse responsible for overseeing the procedures of contract personnel responsible for performing all drug and alcohol testing, to include maintaining employee's test results and making referrals.

First responder. A public safety employee or volunteer whose duties include responding rapidly to an emergency. The term includes:

- (1) *a peace officer whose duties include responding rapidly to an emergency;*
- (2) *fire protection personnel;*

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- (3) a volunteer firefighter who is:
- a. certified by the Texas Commission on Fire Protection or by the State Firemen's and Fire Marshalls' Association of Texas; or
 - b. a member of an organized volunteer fire-fighting unit as described by Section 615.003 of the Texas Government Code;
- (4) an individual certified as emergency medical services personnel by the Department of State Health Services;
- (5) an emergency response operator or emergency services dispatcher who provides communication support services for an agency by responding to requests for assistance in emergencies; and
- (6) other emergency response personnel employed by an agency.

~~Gender.~~ When referring to the male gender throughout this policy, it shall be construed to include males and females (i.e. him, his, he).

Illegal drugs. Any unauthorized controlled substances including, but not limited to, heroin, cocaine, crack cocaine, cannabinoids (Marijuana, hashish, THC}, PCP (phencyclidine), and LSD (lysergic acid diethylamide).

Illegal prescription. any prescription for a controlled substance that: 1.) has been prescribed by a physician who is not licensed to practice medicine in the United States, or 2.) a prescription for a controlled substance that is being taken by the employee, but is a legally written prescription for someone other than the employee.

Injury. A violation of any applicable local, state, or federal safety rule or regulation.

Legally prescribed drug. Any prescription for a controlled substance that has been prescribed by a physician who is licensed to practice medicine in the United States and has been filled by a pharmacy in the United States.

Medical review officer (MRO). 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 with ~~his or her~~ their medical history and any other relevant biomedical information.

Negative drug result. The result reported by the certified laboratory to the Medical Review Officer (MRO) when a specimen contains no drug, or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

On-duty time. This term applies to all employees. Also referred to as "on the job" throughout this policy. Time period which constitutes an employee's work day, (i.e. for some employees the normal scheduled work day may be from 8:00 a.m. to 5:00 p.m.) including that time period when the employee has been recalled to work or overtime duty. This includes time in city-owned/leased vehicle to and from conducting city business. The term "on-duty" includes, but is not limited to, lunch, authorized breaks, and any work related functions whether in or out of town.

~~Positive Test Results.~~ For alcohol, a breath alcohol concentration of 0.02 grams and above is considered a positive test result for DOT and non-DOT. For those employees who are under EAP guidelines, any alcohol concentration level of above zero (0) will be considered positive.

Positive Test Result. A confirmed drug or alcohol test result verified by a certified laboratory and reviewed by a Medical Review Officer (MRO), indicating:

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- (1) Drugs: The presence of a prohibited drug or drug metabolite at or above the applicable cutoff concentration established by federal, state, or City policy, unless a lawful and properly verified prescription is provided; and
 - (2) Alcohol: A breath alcohol concentration of 0.02 or greater for DOT and non-DOT employees, or any detectable alcohol concentration above 0.00 for employee's subject to Employee Assistance Program (EAP) requirements, safety-sensitive restrictions, or zero-tolerance provisions under this policy.

Pre-Employment. The period and processes that take place before an individual is officially hired by the City of Laredo for the position they are applying for. It includes, but is not limited to, the application process, interview process, background checks, and drug testing. This includes new hires and current City of Laredo employees applying for a new position within the City.

Prescribed drug/controlled substance. Defined as a legally obtained prescription issued in writing by an accredited physician licensed to practice medicine in the United States of America and filled by a U.S. pharmacy.

Reasonable suspicion. A belief based on objective facts and observable on-duty behavior, speech, or body odors sufficient to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his their job safely is reduced; A belief that the employee has violated the drug, alcohol, and/or inhalant prohibitions, based on specific, contemporaneous, articulate observations concerning the appearance, behavior, speech or body odors of the employee.

Refusal to submit (to a drug or alcohol test). An employee (1) fails to provide adequate breath for testing without a valid medical explanation after he has received notice of the requirement for breath testing, (2) fails to provide adequate urine for drug testing without a valid medical explanation after he has received notice of the requirement for urine testing, or (3) engages in conduct that clearly obstructs the testing process is in violation of the policy and will be considered a positive result.

Safety-sensitive functions/positions (on-duty time). A covered employee is considered to be holding a safety-sensitive position if the position meets any of the following criteria:

- (1) If it is deemed a safety sensitive position pursuant to federal DOT regulations and guidelines;
 - (2) Law enforcement employees who carry firearms or who are directly involved in drug interdiction;
 - (3) Public transporters in industries in which there is a documented problem with drug or alcohol related incidents;
 - (4) Operators of heavy machinery, large vehicles or hazardous substances;
 - (5) Employees working in high-risk areas such as highway medians;
 - (6) Wastewater treatment employees who handle hazardous chemicals;
 - (7) Positions with access to life saving devices and/or equipment or that may render first aid in any emergency event, whether life threatening or not, such as police, firefighters, lifeguards, paramedics, licensed medical professional, or any other first responder.
- ~~(2) —Requires the carrying of a firearm;~~

-
- ~~(3) Requires the operation of potentially dangerous machinery or equipment or motor driven equipment and/or performs maintenance or repairs on such equipment;~~
 - ~~(4) Positions requiring the transporting of passengers;~~
 - ~~(5) Positions of "front line" drug and controlled substances interdiction;~~
 - ~~(6) Positions that have access to truly sensitive material (involving local or national security);~~
 - ~~(7) Positions with access to narcotics and/or prescribed medicines, such as police, firefighters, first responders and medical professionals;~~
 - ~~(8) Positions with access to life saving devices and/or equipment or that may render first aid in any emergent event, whether life threatening or not, such as police, firefighters, lifeguards, first responders, paramedics and medical professionals;~~
 - ~~(9) Positions which work with or have access to extremely hazardous substances pursuant to Emergency Planning and Community Right to Know Act, Title II and/or have access to the public water supply.~~

Screening test (drug or alcohol). In drug testing, it means an immunoassay screen to eliminate "negative" urine specimens from further consideration. In drug testing, it means an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in his their system.

Split Specimen. A portion of a single urine sample collected for drug testing that is securely separated at the time of collection and retained unopened, which may be sent to a second certified laboratory for confirmatory analysis at the employee's request following a verified positive, adulterated, or substituted drug test result.

Substance abuse professional. A licensed physician (medical doctor or doctor of osteopathy), or licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor with appropriate credentials, knowledge, and clinical experience in the diagnosis and treatment of drug- and alcohol-related disorders, who evaluates employees following a drug or alcohol policy violation and makes recommendations regarding education, treatment, return-to-duty, follow-up testing, and aftercare. (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug-related disorders.

Verified Positive Drug Test. A confirmed drug test result, reviewed and finalized by a Medical Review Officer, indicating the presence of a prohibited drug or drug metabolite at or above established cutoff levels and without a valid medical explanation.

Work site. A place or location where a city employee is directed to be working or on-duty. This includes being in a city-owned/leased vehicle at any time for the purpose of conducting city business.

(Ord. No. 2008-O-011, App. A, 1-7-08)

Sec. 2-3002-298. Forms.

A comprehensive list of all Drug and Alcohol Policy-related forms are available through the Health Department Employee Health and Wellness Clinic.

Form DA1

CITY OF LAREDO
REASONABLE SUSPICION OBSERVATION FORM
(STRICTLY CONFIDENTIAL)

(Please Print)

EMPLOYEE NAME:

LAST FOUR DIGITS OF SOCIAL SECURITY NO.:

DATE & TIME OF INCIDENT:

NAME OF SUPERVISOR #1:

NAME OF SUPERVISOR #2:

This checklist is to be completed when an incident has occurred which provides reasonable suspicion that an employee is under the influence of drugs, alcohol and/or inhalants. The Supervisor(s) shall note, in writing, all pertinent behavior and physical signs or symptoms which lead him/her to reasonably believe that the employee has recently used or is under the influence of, a prohibited substance such as a drugs, alcohol and/or inhalants.

Mark each applicable item on this form and any additional facts or circumstances which you have noted.

A. NATURE OF THE INCIDENT/CAUSE FOR SUSPICION

1. Observed/reported possession or use of drugs, alcohol and/or inhalants or prohibited controlled substance.
2. Apparent use of drugs, inhalants and/or alcohol intoxication.
3. Observed abnormal or erratic behavior
4. Arrest or conviction for drug and/or alcohol or prohibited controlled substance related offense
5. Evidence of tampering on a previous drug test
6. Other (e.g., flagrant violation of safety regulations, serious misconduct, fighting or argumentative/abusive language, refusal of supervisor instruction, unauthorized absence on the job) (Please specify).

B. UNUSUAL BEHAVIOR

- () 1. Verbal abusiveness
- () 2. Physical abusiveness
- () 3. Extreme aggressiveness or agitation
- () 4. Withdrawal, depression, mood changes, or unresponsiveness
- () 5. Inappropriate verbal response to questioning or instructions
- () 6. Other erratic or inappropriate behavior (e.g., hallucinations, disorientation, excessive euphoria, confusion) Please specify.

~~C. PHYSICAL SIGNS OR SYMPTOMS~~

- ~~() 1. Glassy or bloodshot eyes~~
- ~~() 2. Slurred speech~~
- ~~() 3. Impaired physical coordination and poor reflexes~~
- ~~() 4. Abnormal, erratic, or bizarre behavior~~
- ~~() 5. Unprovoked fighting or combative behavior~~
- ~~() 6. Smell of alcohol on breath or smell of marijuana or smell of inhalant~~
- ~~() 7. Unsteady gait~~
- ~~() 8. Possession of drugs, alcohol or inhalant~~
- ~~() 9. Admission of intoxication or being under the influence of illegal drugs, alcohol or inhalants while on the job~~
- ~~() 10. Direct observation of drugs, alcohol or inhalant use~~

~~D. WRITTEN SUMMARY~~

~~Please summarize the facts and circumstances of the incident, employee response, supervisor actions, and any other pertinent information not previously noted. Please note the date, times, and location of reasonable cause testing or note if employee refused test. Attach additional sheets as needed.~~

Transportation Offered to the Employee	_____ YES	_____ NO
Transportation Refused	_____ YES	_____ NO

_____	_____
SUPERVISOR'S SIGNATURE DATE	PRINTED NAME

Recommend Testing:	_____ YES	_____ NO
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Approval:	_____	_____
_____	Division Manager/designee	Department Director/designee

Form DA2

City of Laredo
Reasonable Suspicion Referral Form

(Note: This form must accompany the Reasonable Suspicion Observation Form)

(Please Print)

Employee Name: _____

Last 4 digits of Social Security No.: _____

Date of Referral: _____ Time of Referral: _____

Director/Supervisor Making Referral: _____

Reason for Referral: _____

Director's Signature: _____	Date: _____
Supervisor's Signature: _____	Date: _____

(For EHN Use only)

Employee Health Nurse's Signature: _____	Date: _____
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Time of arrival at Employee Health and Wellness Division: _____ am or pm

Will employee be sent for a Drug and Alcohol Test? Yes _____ No _____

Follow-up Date: _____

INITIAL EAP Referral Date: _____

Form-DA3

CITY OF LAREDO
DRUG AND ALCOHOL TEST
RELEASE OF AUTHORIZATION AND CONSENT FORM

(Please Print)

I, _____, Last 4 Digits of SS#: _____, give my permission to the City of Laredo and the licensed testing facility it has selected, to conduct the tests required for drug and alcohol testing for reasons described in the City of Laredo Drug and Alcohol Policy.

~~I understand that if the first drug test is positive, the laboratory will conduct a second analysis on the same specimen to confirm the original result at my expense if requested. I am aware I have 72 hours to request that the laboratory analyze a second test on the same specimen commencing at the time I was notified of the original positive test result by the testing facility.~~

~~I understand that if the positive results of the tests are caused by a prescribed drug or controlled substance, as defined in this policy, for treatment of a current condition, the testing facility will verify the circumstances with the doctor before taking any actions affecting my future employment. I further understand that I will not be hired if I attempt any form of tampering with the specimen.~~

~~I understand that if the positive results of the tests are caused by drugs or alcohol that are not part of a currently prescribed medical treatment program by a physician licensed to practice medicine in the United States, I will be subject to termination, if currently employed, or I will not be hired by the City of Laredo.~~

~~I understand that if I refuse to participate in this drug and alcohol test and/or do not authorize the City and my personal physician to discuss any medications that I may be taking, I will be subject to termination or will not be offered employment. I also understand that if I do not report to the licensed testing facility on the day and time I am told to report I will not be hired by the City of Laredo; or if I am employed I will be subject to termination.~~

~~I further understand and agree to the release of the test results to the City of Laredo and that the results may be used as grounds for discipline up to and including termination.~~

~~I have read this form and had the City of Laredo Drug and Alcohol Policy, including the provisions for this and future tests, fully explained to me.~~

Signature	Date	Witness Signature	Date

____ Check and explain the ramifications of applicant/employee refuses to sign the form. Witness to the refusal of signature needed below.

Applicant Signature	Date	Witness Signature	Date

Form-DA4

CITY OF LAREDO
DRUG AND ALCOHOL POLICY

I acknowledge that I have received, read, and understood the City of Laredo Drug and Alcohol Policy.

Printed Name	Employee's Signature

City Representative Printed Name	City Representative's Signature

Form DA5

CITY OF LAREDO
REQUEST FOR SECOND DRUG ANALYSIS OF SPLIT SPECIMEN

NOTE TO EMPLOYEE: YOU MUST COMPLETE THIS FORM WITHIN 72 HOURS OF NOTIFICATION OF ORIGINAL POSITIVE TEST RESULT.

Name:

Last 4 digits of Social Security No.:

Today's Date & Time:

Date of Original Test:

Date & Time of Notification of Positive Test Result:

I, _____, request a retest of my drug test taken on _____. I understand that I am responsible for the cost of the second analysis on the same specimen (SPLIT SPECIMEN) and for any loss of time from my employment. I further understand that if the result of the second analysis is negative, then the City of Laredo will reimburse me for the expense of the test and the time of work loss (paid leave). I also understand if the second analysis is confirmed positive I will be immediately terminated and will no longer be eligible to be hired by the City of Laredo, in accordance with this Policy (see Section XIII, Drug and Alcohol Policy Violations.

Printed Name	Employee's Signature	Date

Received by: _____ Date _____ Time _____

Form-DA6

CITY OF LAREDO
POST ACCIDENT REPORT
REASONS FOR NOT ADMINISTERING
DRUG AND ALCOHOL TEST

_____ (Print Name), _____ (Last 4 Digits of SS#), was not tested under the Post-Accident Section of the Drug and Alcohol Testing Policy for the following reason:

Reasons for not administering test: (Attach sheet if additional space is needed):

Date of Accident: _____ Time of Accident: _____

Date and Time of notification to Supervisor/Director that testing was not administered: _____.

Supervisor's Name (Print)	Supervisor's Signature	Date
Division Head Name (Print)	Division Head Signature	Date
Dept. Director's Name (Print)	Dept. Director's Signature	Date
HR-Director (Print)	HR-Director's Signature	Date

(For City Manager's use only)

Action Taken Accepted:	Yes _____	No _____
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If action taken not accepted, please note the following disciplinary action to be taken:

City Manager's Signature	Date
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Form-DA7

Employee Assistance Program (EAP) Admission Request
Referral Form for Random Drug and Alcohol Testing

EAP Employee Code (EC) # _____ is requesting to be admitted to the Employee Assistance Program (EAP) as of today, _____ for evaluation. The employee verbalizes understanding of the need for compliance with the Substance Abuse Professional's recommendation as a condition of continued employment. Compliance with the SAP includes initial as well as random drug and alcohol testing for up to 60 months and may include

rehabilitation or hospitalization in a drug and alcohol treatment center if recommended by the SAP. Failure to comply with all Drug and Alcohol Testing Policies and Procedures, to include compliance with the SAP in reference to counseling or rehabilitation procedures, will constitute insubordination and consequences will include disciplinary action up to and including termination.

Employee Initials only	Date	Time
EHN Signature	Date	Time

(For EHN use only)

Code # Assigned: EAP-EC001

Date and Time of referral to EAP: _____, _____

Date of Appointment to EAP: _____

Date and Result of RTW Drug and Alcohol Test: _____

(Ord. No. 2008-O-011, App. B, 1-7-08)

Secs. 2-301—2-310. Reserved.