

## GENERAL EMPLOYMENT & COMMUNICATION POLICIES

### **CONDUCT AS A CITY EMPLOYEE**

In accepting employment with the City of New Prague, employees become representatives of the City and are responsible for assisting and serving the citizens for whom they work. Your primary responsibility as an employee is to serve the residents of New Prague. Employees should exhibit conduct that is ethical, professional, responsive, and of standards becoming of a City employee. To achieve this goal, all employees must adhere to established policies, rules, and procedures and follow the instructions of their supervisors.

The following are job requirements and expectations for every employee and position within the City of New Prague:

- Follow state and federal laws while performing work for the City
- Perform assigned duties to the best of their ability at all times.
- Render prompt and courteous service to the public at all times.
- Read, understand, and comply with the rules and regulations as set forth in these personnel policies as well as those of their departments.
- Conduct themselves professionally toward both residents and staff and respond to inquiries and information requests with patience and every possible courtesy.
- Report any and all unsafe conditions to the immediate supervisor.
- Maintain good attendance while meeting the goals set by your supervisor.

The following requirements and expectations are for every employee and position that serves or sells alcohol under the City's liquor license must:

- Be legal age or older to serve or sell
- Verify age by government issued photo id prior to sale of alcohol
- Refuse sale to intoxicated persons
- Complete Alcohol Compliance Server Training annually

Violations of the above are subject to the City's progressive disciplinary process.

## **ALCOHOL, DRUG AND CANNABIS POLICY**

The City is committed to providing a workplace that is free of alcohol, drugs, cannabis and other intoxicants so that their use does not pose a safety or health hazard or jeopardize the success of the City's operations or otherwise adversely affect the City, its employees, or its clients. Accordingly, all employees must report to and be at work in a fit condition to perform.

This policy applies to all applicants for employment, all employees, and independent contractors. The policy is applicable at City facilities and at any other location when an employee or independent contractor is acting within the scope of his or her employment or contract with the City.

Employment at the City is at-will. This policy is not an employment contract and should not be interpreted as creating an employment contract.

Employees serving in certain positions may, per federal and/or state regulations, be subject to testing related to intoxicating substances and should refer to the City's **Alcohol, Cannabis and Drug Testing Protocol** included in this policy (below) for more details:

### **Definitions**

The following definitions apply for the purposes of this policy:

"Alcohol and drug testing" or "drug testing" means the analysis of a body component sample for the purpose of measuring the presence or absence of drugs, alcohol, cannabis, or their metabolites in the sample tested.

"Alcohol and drug testing" or "drug testing" is applicable, per federal and state regulations, for certain DOT and police/fire employees.

"Break" or "lunch break" means a period of time, whether paid or unpaid, authorized by the City as a break from work duties.

"Cannabis" means marijuana, tetrahydrocannabinols (THC), cannabis flower, cannabis products, lower-potency hemp edibles and hemp-derived consumer products.

"Drug" means a controlled substance but does not include cannabis, unless stated otherwise.

"Employee" means any employee of the City as well as an independent contractor, or person working for an independent contractor who applies to become an employee of the City, and includes a person who has received a job offer made contingent on the person passing drug or alcohol testing.

"Medically authorized drugs" means any prescription medication for which the employee has a valid prescription or non-prescription medication taken at the direction of a physician, including medical marijuana.

"Registered Person" means a person enrolled in, and who possesses acceptable verification of enrollment in the medical cannabis patient registry program under Minnesota statute.

### **Non-Discrimination**

Consistent with its policy prohibiting discrimination, the City recognizes that disabled individuals are protected from discriminatory treatment. Under Minnesota law, a disabled person is someone who has a medical or psychological condition which materially impairs major life activities. However, in accordance with Minnesota law, disability does not include any condition resulting from alcohol drug, cannabis or other intoxicant abuse which prevents a person from performing essential functions of the job or which creates a direct threat to property or the safety of individuals.

## Prohibitions

While consuming and/or under the influence of alcohol, drugs, cannabis, other intoxicants or any other controlled substance that affects his or her alertness, coordination, reaction, response, judgment, decision-making, or safety, employees are prohibited from:

- Reporting to work
- Performing any work within the scope of his or her employment, including paid or unpaid breaks
- Operating, using, or driving any equipment, machinery, or vehicle while acting in the scope of employment

Every employee is under an affirmative duty to immediately notify their supervisor if the employee is not in compliance with this provision. The operation or use of any equipment, machinery, or vehicle while acting within the scope of employment shall be deemed a verification that the employee is in compliance with this provision.

No employee shall manufacture, distribute, dispense, sell, possess, transfer, or use alcohol, drugs, cannabis, other intoxicants or any other controlled substance in the workplace or at any location where the employee is acting within the scope of his or her employment.

Engaging in off-duty sale, purchase, transfer, use or possession of illegal drugs or controlled substances may have a negative effect on an employee's ability to perform work for the City. The engagement in off-duty sale, purchase, transfer, use or possession of illegal drugs or controlled substances is grounds for discipline.

Making arrangements during working time, or on City property for the sale, purchase, or transfer of alcohol, illegal drugs or cannabis is strictly prohibited, even if the actual sale, purchase, or transfer occurs during non-working time or off City property.

Every employee is under an affirmative duty to notify his or her supervisor or other member of management if the employee is taking medically authorized drugs or other substances that may alter the employee's alertness, coordination, reaction, response, judgment, decision-making, safety, or job performance.

The City may notify the appropriate law enforcement agency when it has reasonable suspicion to believe that an employee may have illegal drugs in his or her possession at work or on City premises.

The City retains the right to discipline or terminate an employee without requiring an employee to submit to alcohol or drug testing, for any or no reason, including the Company's concern or belief (whether right or wrong) that an employee has violated this Policy.

## Medical Cannabis

The City will not discriminate against a Registered Person in hiring, termination, or any term or condition of employment, or otherwise penalize a Registered Person on the basis of:

- (1) the Registered Person's status as a patient enrolled in the Minnesota patient registry program; or
- (2) the Registered Person's positive drug test for cannabis components or metabolites, unless the Registered Person used, possessed, or was impaired by medical cannabis on the premises of the place of employment or during the hours of employment,

except to the extent a failure to do so would violate federal law or regulations or cause the City to lose a monetary or licensing-related benefit under federal law or regulations.

An employee or applicant who is required to undergo testing pursuant to this policy must present acceptable verification of enrollment in the Minnesota patient registry as part of their explanation for any positive test for cannabis components or metabolites to be subject to the protections of this paragraph.

Registered Persons are required to comply with the remainder of this Alcohol, Drug and Cannabis policy, including but not limited to the “Prohibitions/Requirements” section of this policy. Failure to abide by the City’s Alcohol, Drug and Cannabis policy is grounds for discipline up to and including termination.

### **Other Provisions**

As a condition of employment, all employees are required to abide by the terms of this policy and notify the City of any criminal alcohol, drug, or cannabis statute conviction occurring in the City's workplace, while acting in the scope of employment, or which impacts the employee’s ability to perform the duties of their position, no later than five (5) days after the conviction. An employee who is convicted of a violation of any criminal alcohol, drug, or cannabis statute may be subject to discipline, up to and including discharge.

Questions regarding this Policy or its implementation and applicability to particular situations should be referred to your supervisor or Human Resources.

The City reserves the right to investigate its premises and property including employee vehicles and other employee-owned property on City property (including leased property) to determine any violation of this policy. Any refusal by any employee to cooperate in such an investigation may be grounds for disciplinary action, up to and including termination. Employees have no right of privacy as to property brought to work at the City.

### ***Alcohol, Drug, and Cannabis Testing Protocol***

#### **Additional Testing Definitions**

The following definitions apply for the purposes of this protocol:

“Alcohol and drug testing” or “drug testing” means the analysis of a body component sample for the purpose of measuring the presence or absence of drugs, alcohol, or their metabolites in the sample tested. “Alcohol and drug testing” or “drug testing” does not include cannabis or cannabis testing, unless stated otherwise.

“Cannabis testing” means the analysis of a body component sample for the purpose of measuring the presence or absence of cannabis flower, cannabis products, lower-potency hemp edibles, hemp-derived consumer products, or cannabis metabolites in the sample tested.

"Job applicant" means a person, independent contractor, or person working for an independent contractor who applies to become an employee of (or to contract with) the City, and includes a person who has received a job offer made contingent on the person passing drug or alcohol testing.

"Positive test result" means a finding of the presence of alcohol, drugs, cannabis, or their metabolites in the sample tested in levels at or above the threshold detection levels.

“Random selection basis” means a mechanism for selection of employees that; (1) results in an equal probability that any employee from a group of employees subject to the selection mechanism will be selected; and (2) does not give the City discretion to waive the selection of any employee selected under the mechanism.

“Refuse to cooperate” or “Refusal to cooperate” means to obstruct the collection or testing process; to submit an altered, adulterated or substitute sample; to fail to show up for a scheduled test; to refuse to complete the requested drug testing forms; or to fail to promptly provide specimen(s) for testing when directed to do so, without a valid medical basis for the failure. Employees who leave the scene of an accident without justifiable explanation prior to submission to drug and alcohol testing will also be considered to have refused to cooperate and will automatically be subject to discharge.

“Safety-sensitive position” means a job, including any supervisory or management position, in which an impairment caused by alcohol, drug, or cannabis usage would threaten the health or safety of the employee or any other person.

## Testing Protocol

The City requires, in accordance with Federal or State requirements, that applicants and employees subject to the **Alcohol, Cannabis and Drug Testing Protocol** submit to alcohol, drug and/or cannabis testing in accordance with the provisions of Minnesota Statute Sections 181.950-181.957. This policy represents the notice required under Minnesota Statute and will be provided to all applicants and employees who are required to undergo testing. Positions subject to this testing include:

1. Safety-sensitive positions
2. Peace officer positions
3. Firefighter positions
4. Positions involving face-to-face care, training, education, supervision, counseling, consultation, or medical assistance to:
  - a. Children
  - b. Vulnerable adults
  - c. Patients who receive health care services from a provider for the treatment, examination, or emergency care of a medical, psychiatric, or mental condition
5. Positions requiring a commercial driver's license (CDL) or requiring an employee to operate a motor vehicle for which state or federal law requires drug, alcohol, or cannabis testing of applicants or employees
6. Positions of employment funded by a federal grant
7. Any other positions for which state or federal law require testing of an applicant or employee for cannabis.

Employees subject to Alcohol, Cannabis and Drug Testing Protocol may be required to undergo testing in the following situations, in accordance with Federal or State requirements:

1. *Job Applicants*. The City may require that all applicants who have received conditional offers of employment for a particular position undergo alcohol, cannabis and drug testing. If the offer of conditional employment is subsequently withdrawn based upon testing results, the City will notify the applicant of the reason for the withdrawal.
2. *Reasonable Suspicion Testing*. The City may require an employee to undergo alcohol, drug and/or cannabis testing when the City reasonably suspects that the employee:
  - a. is under the influence of alcohol, drugs or cannabis;
  - b. is in violation of written rules prohibiting alcohol, drug or cannabis use;
  - c. has sustained or caused another employee to sustain personal injury and there is a reasonable possibility, in the sole discretion of the City, that alcohol, drugs or cannabis use was or could have been a contributing factor to the injury; or
  - d. has caused a work-related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident and there is a reasonable possibility, in the sole discretion of the City that alcohol, drugs or cannabis use was or could have been a contributing factor to the injury.
3. *Random Testing*. Employees may be subject to random alcohol, drug and/or cannabis testing. The random selection shall be made by a valid process by the City. Random testing will be unannounced and shall be distributed throughout the calendar year. The employee(s) selected will need to proceed immediately to the testing site. Any employee refusing to submit to testing for a random draw is subject to disciplinary action, including termination.
4. *Routine Physical Examination Testing*. The City may require employees to undergo alcohol, cannabis and drug testing once each calendar year as part of a routine physical examination. Employees to be tested will be notified at least two weeks in writing in advance of the examination.
5. *Treatment Program Testing*. An employee may be required to undergo alcohol, cannabis and drug testing if the employee has been referred for chemical dependency treatment or evaluation or is participating in a chemical dependency treatment program. An employee meeting these conditions may be required to

undergo alcohol, drug or cannabis testing without prior notice during the evaluation or treatment period and for a period of up to two years following the completion of any prescribed chemical dependency treatment program.

THE CITY RESERVES THE RIGHT NOT TO TEST AN EMPLOYEE, AND TO TAKE ANY DISCIPLINARY ACTION IT DEEMS APPROPRIATE WITHOUT TESTING UNDER THIS POLICY.

The following will apply to all employees the City requests to undergo testing:

1. *Consent.* All persons to be tested will be required to complete and sign a consent form prior to testing.
2. *Refusal to Cooperate.* An employee or job applicant has the right to refuse to cooperate with testing. However, a refusal to cooperate with testing will be treated as a failure to comply with policy and may result in withdrawal of a job offer or disciplinary action up to and including termination of employment.
3. *Test Results.*
  - a. *Negative Test Results (passed tests).* Individuals who test negative on an initial alcohol, drug or cannabis test will be given written notice of the test result three days after the City is notified of the result. Likewise, individuals who test negative on a confirmatory test after a positive initial test will be given written notice of the test result within three days after the City is notified of the result.
  - b. *Positive Test Results (failed test).* A confirmatory test will automatically be performed on all samples that result in a positive test result on an initial test. Individuals who test positive on the confirmatory test will be notified in writing three days after the City has been notified of the result of the test result of the right to explain the result, including any over-the-counter or prescription medications taken. Individuals who wish to provide explanatory information regarding their positive confirmatory test result may do so by providing the City with that information within three working days after receiving notice of the positive test results.
  - c. Individuals who wish to have a retest of their confirmatory test must notify the City in writing of their intention to have a retest within five working days after being notified of the confirmatory test result. Persons requesting a confirmatory retest are responsible for the cost of the retest.
  - d. *Right to Test Result.* An employee or job applicant has the right to request and receive from the City a copy of the test result report on any alcohol, drug or cannabis test.
4. *Costs.* All costs related to alcohol, drug or cannabis testing will be paid by the City with the exception of confirmatory retest costs which must be paid by the employee or job applicant requesting the retest.
5. *Disciplinary Action in Response to a Positive Test Result*
  - a. *Interim Disciplinary Action:* The City may transfer an employee with a positive test to another position at the same rate of pay or temporarily suspend the employee pending the outcome of the confirmatory test (and, if requested, the confirmatory retest) if the City believes that is reasonably necessary to do so to protect the health and safety of the employee, co-employees, or the public. An employee who is suspended without pay will be reinstated with back pay if the confirmatory test or retest is negative. In the case of job applicants, a positive initial test result must be verified by a confirmatory test before a conditional offer of employment will be withdrawn.
  - b. *First failed Test – Discharge/Withdrawal of Job Offer:* The City will not discharge an employee if the employee tests positive on a confirmatory test and the positive confirmatory test was the first such result unless (1) the employee has been given an opportunity to participate in, at the employee's expense or pursuant to coverage under an employee's benefit plan, an alcohol, drug or cannabis counseling or rehabilitation program; and (2) the employee has either refused to participate in the counseling or rehabilitation program or has failed to successfully complete it. The type of counseling or rehabilitation program in which an employee participates will be determined by the City after consultation with a certified chemical use counselor or physician trained in the diagnosis and treatment of chemical dependency.

The City may withdraw a conditional offer of employment from a job applicant who tests positive on an alcohol and drug (including cannabis) test.



- c. First Failed Test – Discipline. Except as otherwise provided, the City may take any disciplinary action short of discharge it deems warranted in the event an employee tests positive on his or her confirmatory test.
- d. Second Failed Test: The City may discharge an employee who tests positive on a confirmatory test and who has previously had a positive confirmatory test result. This action may be taken without first referring the employee to a chemical dependency counseling or rehabilitation program.
- e. Additional Terms for Discipline Related to Cannabis: The City may discipline, discharge, or take other adverse personnel action against an employee for cannabis use, possession, impairment, sale, or transfer while an employee is working, on the City’s premises, or operating the City’s vehicle, machinery, or equipment as follows:
  - a. If, in the opinion of the City, as the result of consuming cannabis, the employee does not possess the clearness of intellect and control of self that the employee otherwise would have;
  - b. If cannabis testing verifies the presence of cannabis following a confirmatory test;
  - c. If an employee violates this Alcohol, Drug and Cannabis policy; or
  - d. As otherwise authorized or required under state or federal law or regulations, or if a failure to do so would cause the City to lose a monetary or licensing-related benefit under federal law or regulations.

6. *Privacy of Test Results*

- a. Test results and other information acquired as a result of the testing program are private and confidential information and will not be disclosed by the City or the testing laboratory to another employee or to third party individuals, government agencies or private organizations without the written consent of the employee or applicant being tested.
- b. Evidence of a positive test result on a confirmatory test, however, may be used in an arbitration proceeding pursuant to a collective bargaining agreement, an administrative hearing, or a judicial proceeding, provided the information is relevant to the hearing or proceeding. Such evidence may also be disclosed to any federal agency or other unit of the United States government as required under federal law, regulation, or order. Evidence of a positive test result on a confirmatory test may also be disclosed to a substance abuse treatment facility for the purpose of evaluation or treatment.
- c. The City will provide an employee with access to information in the employee’s file relating to positive test result reports and other information acquired in the testing process as well as conclusions drawn from or actions taken based upon such information.

**Commercial Vehicle Drivers**

Notwithstanding the remainder of this policy, employees and applicants required to hold a commercial driver’s license (CDL) are required to submit to alcohol and/or drug testing at any time during the employment process. For CDL drivers, drug and alcohol testing is conducted in compliance with the U.S. Department of Transportation (DOT) regulations and Minnesota Drug and Alcohol Testing in the Workplace Act. For CDL drivers, cannabis is a controlled substance and illegal drug and CDL drivers are held to the standards mandated by the DOT related to cannabis usage and positive test results.

**~~DRUG & ALCOHOL POLICY~~**

~~The City is committed to providing a workplace that is free of drugs and alcohol so that their use does not pose a safety or health hazard or jeopardize the success of the City's operations or otherwise adversely affect the City, its employees, or its stakeholders. Accordingly, all employees must report to and be at work in a fit condition to perform.~~

~~This policy applies to all applicants for employment and to all employees including contract or temporary employees and volunteer firefighters. The policy is applicable at City facilities and at any other location when an employee is acting within the scope of his or her employment with the City.~~

~~There may be specific council approved Fire Department events at which City employees are permitted to consume alcohol on City premises. Please refer to **Appendix C** for a current list of such events.~~

## **Definitions**

The following definitions apply for the purposes of this policy:

~~"Alcohol and drug testing" or "drug testing" means the analysis of a body component sample for the purpose of measuring the presence or absence of drugs, alcohol, or their metabolites in the sample tested.~~

~~"Break" or "lunch break" means a period of time, whether paid or unpaid, authorized by the City as a break from work duties.~~

~~"Employee" means a person, independent contractor, or person working for an independent contractor who performs services for compensation, in whatever form, for the City.~~

~~"Job applicant" means a person, independent contractor, or person working for an independent contractor who applies to become an employee of the City, and includes a person who has received a job offer made contingent on the person passing drug or alcohol testing.~~

~~"Medically authorized drugs" means any prescription medication for which the employee has a valid prescription or non-prescription medication taken at the direction of a physician.~~

~~"Positive test result" means a finding of the presence of drugs, alcohol, or their metabolites in the sample tested in levels at or above the threshold detection levels.~~

~~"Random selection basis" means a mechanism for selection of employees that (1) results in an equal probability that any employee from a group of employees subject to the selection mechanism will be selected and (2) does not give the City discretion to waive the selection of any employee selected under the mechanism.~~

~~"Safety sensitive position" means a job, including any supervisory or management position, in which an impairment caused by drug or alcohol usage would threaten the health or safety of any person.~~

## **Non-Discrimination**

~~Consistent with its policy prohibiting discrimination, the City recognizes that disabled individuals are protected from discriminatory treatment. Under Minnesota law, a disabled person is someone who has a medical or psychological condition which materially impairs major life activities. However, in accordance with Minnesota law, disability does not include any condition resulting from alcohol or other drug abuse which prevents a person from performing essential functions of the job or which creates a direct threat to property or the safety of individuals.~~

## **Prohibitions**

~~No employee shall report to work or act within the scope of his or her employment while under the influence of alcohol or any controlled substance or drug that affects his or her alertness, coordination, reaction, response, judgment, decision-making, or safety.~~

~~No employee shall consume alcohol, marijuana, or any other controlled substances or drug that affect his or her alertness, coordination, reaction, response, judgment, decision-making, or safety while acting within the scope of his or her employment. No employee shall consume alcohol, marijuana, or any other controlled substances or drug that affect his or her alertness, coordination, reaction, response, judgment, decision-making, or safety while on a break, including a lunch break.~~

~~No employee shall operate, use, or drive any City of New Prague equipment, machinery, or vehicle or other equipment, machinery or vehicle while acting in the scope of his or her employment while under the influence of alcohol, marijuana, or any other controlled substance or drug that affects his or her alertness, coordination, reaction, response, judgment, decision-making, or safety. Every employee is under an affirmative duty to immediately notify his or her supervisor if he or she is not in compliance with this provision. The operation or~~



~~use of any equipment, machinery, or vehicle while acting within the scope of employment shall be deemed a verification that the employee is in compliance with this provision.~~

~~No employee shall unlawfully manufacture, distribute, dispense, possess, transfer, or use a controlled substance in the workplace or at any location where the employee is acting within the scope of his or her employment.~~

~~Engaging in off-duty sale, purchase, transfer, use or possession of illegal drugs or controlled substances may have a negative effect on an employee's ability to perform work for the City. The engagement in off-duty sale, purchase, transfer, use or possession of illegal drugs or controlled substances is grounds for discipline.~~

~~Every employee is under an affirmative duty to notify his or her supervisor or other member of management if he or she is taking medically authorized drugs, including medically authorized marijuana, or other substances that may alter the employee's job performance.~~

~~The City may notify the appropriate law enforcement agency when it has reasonable suspicion to believe that an employee may have illegal drugs in his or her possession at work or on City premises. When appropriate, the City may also notify licensing boards.~~

~~The City retains the right to discipline or terminate an employee without requiring an employee to submit to alcohol or drug testing, for any or no reason, including the City's concern or belief (whether right or wrong) that an employee has violated this Policy.~~

### ***Alcohol and Drug Testing***

~~The City may require that applicants and employees submit to testing in accordance with the provisions of Minn. Stat §§ 181.950-181.957 (2007). This policy represents the notice required under Minnesota Statute and will be provided to all applicants and employees who are requested to undergo testing.~~

~~The following employees may be subject to testing:~~

- ~~1. Job Applicants. The City may require that all applicants who have received conditional offers of employment for a particular position undergo testing. If the offer of conditional employment is subsequently withdrawn based upon testing results, the City will notify the applicant of the reason for the withdrawal.~~
- ~~1. Routine Physical Examination Testing. The City may require employees to undergo recurring or annual testing as part of a routine physical examination. Employees to be tested will be notified at least two weeks in writing in advance of the examination.~~
- ~~2. Random Testing. The City may require employees in safety sensitive positions to undergo testing on a random selection basis. Once the random selection has been made, the City will not waive the selection of any employees identified through the random process.~~
- ~~3. Reasonable Suspicion Testing. The City may require an employee to undergo testing when the City reasonably suspects that the employee:
  - ~~a. is under the influence of drugs or alcohol;~~
  - ~~b. is in violation of written rules prohibiting drug and alcohol use;~~
  - ~~c. has sustained a work related or caused another employee to sustain personal injury and there is a reasonable possibility, in the sole discretion of the City, that alcohol or substance use was or could have been a contributing factor to the injury; or~~
  - ~~d. has caused a work related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work related accident and there is a reasonable possibility, in the sole discretion of the City that alcohol or substance use was or could have been a contributing factor to the injury.~~~~
- ~~4. Treatment Program Testing. The City may require an employee to be tested either when the employer has referred the employee for chemical dependency treatment or evaluation or when the employee is participating in such a treatment program under an employee benefit plan. The~~

~~employee may be required to undergo testing without advance notice during the evaluation or treatment period and for up to two years following the completion of a treatment program.~~

~~The following will apply to all employees the City requests to undergo testing:~~

- ~~1. Consent. All persons to be tested will be required to complete and sign the employee consent form. Each form must also be witnessed by a person designated by the City.~~
- ~~1. Refusal to Participate. An employee or job applicant has the right to refuse testing. However, a refusal of testing will be treated as a failure to comply with policy and may result in withdrawal of a job offer or disciplinary action up to and including termination of employment.~~
- ~~2. Test Results.~~
  - ~~a. Negative Test Results [passed tests]. Individuals who test negative on an initial drug or alcohol test will be given written notice of the test result within three days after the City is notified of the result. Likewise, individuals who test negative on a confirmatory test taken after a positive initial test will be given written notice of the test result within three days after the City is notified of the result.~~
  - ~~b. Positive Test Results [failed tests]. A confirmatory test will automatically be performed on all samples that result in a positive test result on an initial test. Individuals who test positive on the confirmatory test will be notified in writing within three days after the City has been notified of the result of the test result of the right to explain the result, including any over the counter or prescription medications taken. Individuals who wish to provide explanatory information regarding their positive confirmatory test result may do so by requesting from Human Resources the *Notification of Positive Alcohol and Drug Test Result and Request for Retest* form within three working days after receiving notice of the positive test results.~~

~~Individuals who wish to have a retest of their confirmatory test must notify the City in writing of their intention to have a retest within five working days after being notified of the confirmatory test result. Persons requesting a confirmatory retest are required to complete and sign the attached *Notification of Alcohol and Drug Test Result and Request for Retest* form and are responsible for the cost of the retest.~~
  - ~~c. Right to Test Result. An employee or job applicant has the right to request and receive a copy of the test result report on any drug or alcohol test from the City.~~
- ~~3. Costs. All costs related to alcohol and drug testing will be paid by the City with the exception of confirmatory retest costs which must be paid by the employee or job applicant requesting the retest.~~
- ~~4. Disciplinary Action in Response to a Positive Test Result.~~
  - ~~a. Interim Disciplinary Action: The City may transfer an employee with a positive test to another position at the same rate of pay or temporarily suspend the employee pending the outcome of the confirmatory test (and, if requested, the confirmatory re-test) if the City believes that it is reasonably necessary to do so to protect the health and safety of the employee, co-employees or the public. An employee who is suspended without pay will be reinstated with back pay if the confirmatory test or re-test is negative. In the case of job applicants, a positive initial test result must be verified by a confirmatory test before a conditional offer or employment will be withdrawn.~~
  - ~~b. First Failed Test — Discharge/Withdrawal of Job Offer: The City will not discharge an employee if the employee tests positive on a confirmatory test and the positive confirmatory test was the first such result unless (1) the employee has been given an opportunity to participate in, at the employee's expense or pursuant to coverage under an employee's benefit plan, a drug or alcohol counseling or rehabilitation program; and (2) the employee has either refused to participate in the counseling or rehabilitation program or has failed to successfully complete it. The type of counseling or rehabilitation program in which an employee participates will be determined by the City after consultation with a certified chemical use counselor or physician trained in the diagnosis and treatment of chemical dependency.~~

~~The City may withdraw a conditional offer of employment from a job applicant who tests positive on a confirmatory alcohol and drug test.~~

- ~~c. First Failed Test – Discipline. Except as otherwise provided, the City may take any disciplinary action short of discharge it deems warranted in the event an employee tests positive on his or her confirmatory test.~~
- ~~d. Second Failed Test: The City may discharge an employee who tests positive on a confirmatory test and who has previously had a positive confirmatory test result. This action may be taken without first referring the employee to a chemical dependency counseling or rehabilitation program.~~

~~5. Privacy of Test Results.~~

- ~~a. Test results and other information acquired as a result of the testing program are private and confidential information and will not be disclosed by the City or the testing laboratory to another employee or to third party individuals, government agencies, or private organizations without the written consent of the employee or applicant being tested.~~
- ~~b. Evidence of a positive test result on a confirmatory test, however, may be used in an arbitration proceeding pursuant to a collective bargaining agreement, an administrative hearing, or a judicial proceeding, provided the information is relevant to the hearing or proceeding. Such evidence may also be disclosed to any federal agency or other unit of the United States government as required under federal law, regulation, or order. Evidence of a positive test result on a confirmatory test may also be disclosed to a substance abuse treatment facility for the purpose of evaluation or treatment.~~
- ~~e. The City will provide an employee with access to information in the employee's file relating to positive test result reports and other information acquired in the testing process as well as conclusions drawn from or actions taken based upon such information.~~