



## CITY OF SAN RAFAEL POLICIES AND PROCEDURES

Policy No.	
Subject:	DOT Drug & Alcohol Policy
Resolution No.	
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Prepared By	Leslie Loomis, Human Resources Director
Approved By:	Ken Nordhoff, City Manager

### DOT DRUG & ALCOHOL POLICY

**PURPOSE:**

This policy sets forth the rights and obligations of employees covered under the Department of Transportation regulations and represents the agreement between SEIU Local 1021 and the City on its implementation.

**RESPONSIBILITY:**

Public Works Managers, Supervisors and those positions subject to DOT regulations.

Employees covered by these requirements must familiarize themselves with the provisions of this policy *BECAUSE COMPLIANCE WITH THIS POLICY IS A CONDITION OF YOUR EMPLOYMENT.*

If you are an employee covered by this policy, you should be aware that you are still required to comply with the provisions of the City's Drug and Alcohol Non-DOT Policy. The obligations and requirements set forth below are in addition to existing obligations and requirements set forth in the City's Drug & Alcohol Non-DOT policy.

It is the responsibility of City Management to ensure the City is complying with and enforcing this policy so that the Department of Transportation regulations are implemented.

**REFERENCES:**

- Effective January 1, 1996, the City of San Rafael is required to comply with the United States Department of Transportation regulations implementing the Federal Omnibus Transportation Employee Testing Act of 1991. Specifically, the City must comply with the regulations of the Federal Highway Administration (FHWA). Adoption of a policy is one of the City's obligations under the regulations.

**DEFINITIONS:**

**Employee Questions:**

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Employees shall refer any questions regarding his/her rights and obligations under this policy to the City's Human Resources Employee Benefits Officer.

### Covered Employees:

As of January 1, 2008, employees in the following job classes are covered by this policy:

- Street Maintenance Worker III
- Supervising Street Maintenance Worker
- Street Maintenance Supervisor
- Park Equipment Mechanic
- Parks Maintenance Worker II
- Parks Maintenance Worker III
- Vehicle Equipment Mechanic I\*
- Vehicle Equipment Mechanic II
- Equipment Service Attendant
- Supervising Vehicle Equipment Mechanic
- Sewer Maintenance Worker I\*
- Sewer Maintenance Worker II
- Sewer Maintenance Worker III
- Sewer Maintenance Supervisor
- Sewer Maintenance Superintendent
- Sweeper Operator

\*Must obtain Class B license within one year of date of hire and become subject to DOT when license is obtained.

An employee may be given a written exemption from this Policy by the Human Resources Officer, if, although the employee's classification is listed above, the employee's job duties do not include performing the "safety sensitive function" of driving one of the vehicles set forth in Section C below.

### What are safety-sensitive functions?:

Covered employees will not be under the influence or in possession of controlled substances or alcohol during work hours. Further, the regulations of the FHWA, prohibit certain conduct (see section D below) while performing and prior to performing safety sensitive functions. A safety sensitive function is driving one of the following vehicles:

- 1) A vehicle with a gross combination weight of at least 26,001 pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
- 2) A vehicle with a gross vehicle weight of at least 26,001 pounds;
- 3) A vehicle designed to transport 16 or more passenger, including the driver, or;
- 4) A vehicle used to transport those hazardous materials found in the Hazardous Materials Transportation Act.

### Accident:

An accident occurs when as a result of an occurrence involving a vehicle:

- 1) An individual dies, or;
- 2) An individual sustains bodily injuries requiring immediate medical treatment away from the accident scene, or;
- 3) A covered employee receives a citation for a moving violation arising from the accident, or;
- 4) One or more vehicles is disabled (excluding mechanical failure) and must be towed from the site.

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### **POLICY:**

It is the policy of the City of San Rafael to provide a safe, drug-free and alcohol-free work environment for our employees. Being under the influence of drugs and/or alcohol on the job poses serious risks to employee health and safety. This policy sets forth the rights and obligations of covered employees. If you are a covered employee under this policy you should familiarize yourself with the provisions of this policy **BECAUSE COMPLIANCE WITH THIS POLICY IS A CONDITION OF YOUR EMPLOYMENT.**

### **PROCEDURE:**

#### **Prohibitions:**

Covered employees shall not be under the influence or in possession of controlled substances or alcohol during work hours. The following conduct is prohibited and may result in discipline, up to an including termination:

- 1) Reporting for duty or remaining on duty requiring the performance of safety sensitive functions while having an alcohol concentration level of 0.04 or greater. Performance means actually performing, ready to perform, or immediately available to perform any safety sensitive functions;
- 2) Performing a safety sensitive function within four hours of using alcohol;
- 3) Being on duty or operating a vehicle described in Section C above, while possessing alcohol;
- 4) Using alcohol while performing a safety sensitive function;
- 5) Reporting for duty or remaining on duty requiring the performance of safety sensitive functions when the employee used any controlled substance, except if the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a vehicle;
- 6) Reporting for duty or remaining on duty requiring the performance of safety sensitive functions if the employee tests positive for controlled substances;
- 7) Refusing to submit to any alcohol or controlled substances test required by this policy. A covered employee who refuses to submit to a required drug/alcohol test will be treated in the same manner as an employee who tested 0.04 or greater on an alcohol test or tested positively on a controlled substance test.

A refusal to submit to an alcohol or controlled substances test required by the Policy includes but is not limited to:

- a) Engages in any conduct that clearly obstructs or does not allow for the successful completion of the testing process, including refusal to sign consent forms.
- b) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer;
- c) Fail to remain at the testing site until the testing process is complete. Provided, that an employee who leaves the testing site before the testing process commences of this a pre-employment test is not deemed to have refused to test;

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- d) Fail to provide a urine specimen for any drug test required by this part or DOT agency regulations. Provided, that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test;
  - e) In the case of directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the driver's provision of a specimen;
  - f) Fails to provide adequate breath for alcohol testing as required by the DOT regulations without a valid medical explanation (as determined by a medical evaluation). In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment;
  - g) Fail or declines to take a second test the employer or collector has directed the driver to take;
  - h) Fail to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
  - i) Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector; behave in a confrontational way that disrupts the collection process); or
  - j) Is reported by the MRO as having a verified adulterated or substituted test result.
  - k) An employee admits to the collector that he or she adulterated or substituted their specimen.
  - l) The employee behaves in a confrontational way that disrupts the collection process.
  - m) The employee fails to follow the observer's instructions to raise and lower their clothing and to turn around to permit the observer to determine if the employee has a prosthetic or other device that could be used to interfere with the collection process.
  - n) The employee possesses or wears a prosthetic or other device that could be used to interfere with the collection process.
  - o) The employee refuses to wash his or her hands – after being directed to do so.
- 8) Consuming alcohol during the eight hours immediately following an accident.

In addition to the above prohibitions, employees are reminded of their obligations under the Federal Drug Free Workplace Act of 1988. All employees covered by this Policy have previously been provided with a copy of the City of San Rafael's Drug Free Workplace Statement, and have signed an acknowledgment that they have read the statement and agreed to comply with it.

**Consequences for employees found to have alcohol concentration levels of 0.02 or greater but less than 0.04:**

An employee whose test indicates an alcohol concentration level between 0.02 and 0.04 will be removed from his or her safety position for at least 24 hours. Such an employee may be subject to discipline up to and including termination, in accordance with the applicable provisions of the Memorandum of Understanding. The City will then re-test the employee. Before the employee may be

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returned to his/her safety sensitive position, the employee's alcohol concentration must indicate a concentration below 0.02.

### Circumstances under which drug and alcohol testing will be imposed on the covered employee:

1) **Pre-Employment Testing:**

All applicants for classifications which are covered by the DOT regulations (see "covered employees" above) as well as all employees who transfer from classifications which are not covered to classifications which are covered will be required to submit to pre-employment/pre-duty drug testing. Applicants will not be assigned to a safety sensitive position if they do not pass the test.

2) **Post-Accident Testing:**

Post-accident drug and alcohol testing will be conducted on employees following an accident. Post accident alcohol tests shall be administered within two hours following an accident and no test may be administered after eight hours. A post-accident drug test shall be conducted within 32 hours following the accident.

An accident occurs when as a result of an occurrence involving the vehicle, an individual dies or when a State or local law enforcement authority issues a citation to the covered employee driver for a moving violation arising from the accident.

*Note:* If no citation is issued, each surviving driver who was performing safety-sensitive functions with respect to the vehicle will be tested if the accident involved the loss of human life.

3) **Random Testing:**

Covered employees will be subject to random alcohol and drug testing as follows:

A random alcohol test will be administered on days that it is reasonable to expect the employee may perform a safety-sensitive function (i.e., driving) while the employee is performing a safety-sensitive function, or just after the employee has stopped performing a safety sensitive function. The City will subject at least 10% of the total number of covered employees to random alcohol testing per year.

A random drug test will be administered to at least 50% of the total number of covered employees per year. Some employee may be tested more than once in a year, while others are not tested at all depending on the random selection.

On the date an employee is selected for random drug testing, his/her supervisor will ensure his/her duties are covered. The employee will receive a written notice in the morning indicating the time he/she is to report to the lab for testing.

4) **Reasonable Suspicion Testing:**

Covered employees are also required to submit to an alcohol or drug test when a trained supervisor has reasonable suspicion to believe the employee is under the influence of alcohol or controlled substances. The observation must be based on short-term indicators, such as blurry eyes, slurring, or alcohol on the breath. The supervisor may not rely on long-term signs, such as absenteeism or tardiness, to support the need for a reasonable suspicion test.

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The reasonable suspicion alcohol test will be administered within two hours of the observation. If not, the employer must provide written documentation as to why the test was not promptly conducted. No test may be administered after eight hours following the observation.

To ensure that supervisors are trained to make reasonable suspicion determinations, supervisors vested with the authority to demand a reasonable suspicion drug and alcohol test will attend training on alcohol misuse and training on controlled substances use. The training will cover the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances. The combined training will be at a minimum of two hours duration and a maximum of four hours in duration.

### **5) Return to Duty/Follow-up Testing:**

A covered employee who has violated any of the prohibitions of this policy (see Section D) must submit to a return to duty test before he/she may be returned to his/her position. The test result must indicate an alcohol concentration of less than 0.02 or a verified negative result on a controlled substance test. In addition, because studies have shown that the relapse rate is highest during the first year of recovery, the employee will be subject to follow-up testing which is separate from the random testing obligation. The employee will be subject to at least six unannounced drug/alcohol tests during the first year back to the safety-sensitive position following the violation.

### **Procedures to be used for detection of drugs and alcohol:**

#### **1) Alcohol Testing:**

Alcohol testing will be conducted by using an evidential breath testing device (EBT) approved by the National Highway Traffic Safety Administration. Non-EBT devices may be used for initial screening tests.

A screening test will be conducted first. If the result is an alcohol concentration level of less than 0.02, the test is considered a negative test. If the alcohol concentration level is 0.02 or more, a second confirmation test will be conducted.

The procedures that will be utilized by the lab for collection and testing of the specimen are attached hereto as Attachment A.

#### **2) Drug Testing**

Drug testing will be conducted pursuant to the procedure set forth in Attachment B.

### **Refusal to submit to an alcohol and/or drug test:**

A covered employee who refuses to submit to any required drug/alcohol testing will be treated in the same manner as an employee who tested 0.04 or greater on an alcohol test or tested positively on a controlled substances test.

### **Consequences of failing an alcohol and/or drug test:**

A positive result from a drug or alcohol test may result in disciplinary action, up to and including termination. Any disciplinary action taken will be handled in accordance with the disciplinary procedures outlined in the appropriate Memorandum of Understanding.

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If a covered employee is not terminated, the employee:

- 1) Must be removed from performing any safety-sensitive function;
- 2) Must submit to an examination by a substance abuse professional. Upon determination by the substance abuse professional, the employee may be required to undergo treatment to cure his/her alcohol or drug abuse. The City is not required to pay for this treatment;
- 3) May not be returned to his/her former safety-sensitive position until the employee submits to an return-to-duty controlled substance and/or alcohol test (depending on which test the employee failed) which indicates an alcohol concentration level of less than 0.02 or a negative result on a controlled substance test;
- 4) Will be required to submit to unannounced follow-up testing after he/she has been returned to his/her safety-sensitive position. See Section F (5) above.

### **RETURN TO DUTY & FOLLOW-UP TESTING**

An employee identified as needing help in resolving a drug or alcohol problem shall:

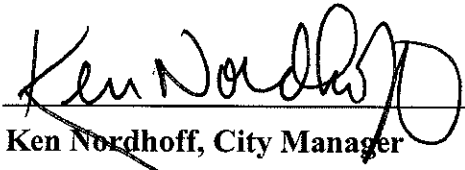
- receive an initial assessment by a qualified Substance Abuse Professional (SAP);
- complete any treatment/rehabilitation program prescribed by the SAP;
- be evaluated by the SAP to determine that he/she has properly followed the prescribed rehabilitation program;
- be subject to unannounced follow-up tests as determined by the SAP following a negative returning to duty test. (49 CFR 382.605)
- All Return-to Duty & Follow-Up drug testing may be conducted under direct observation.

All expenses related to the cost of treatment or rehabilitation, return to duty and follow-up testing is the responsibility of the driver.

### **ATTACHMENTS:**

- Information concerning the effects of alcohol and controlled substances and available methods of intervention.
- Fact sheets addressing the effects of alcohol and the various controlled substances which are tested for under this policy.

### **APPROVED BY:**

  
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Ken Nordhoff, City Manager

8-28-2009  
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Date