



# CITY OF YAKIMA

## AGREEMENT FOR INDIVIDUAL VOLUNTEER SERVICE

**PURPOSE:** The purpose of this Agreement is to outline the responsibilities of the City of Yakima in providing volunteer opportunities, and to create an understanding between the City and the volunteer. This Agreement shall apply to persons voluntarily performing non-compensated services for the City.

Volunteer Name: First, Middle Initial, Last (Please Print)	Home Phone (with area code):	Date of Birth (DOB) ____/____/____
Parent/Guardian (if under 18) Name (Please Print)	Cell Phone (with area code):	
Address	Work Phone (with area code):	Emergency Contact:
City, State, Zip	Email:	Emergency Contact Phone:
Availability to work (Circle all that apply):		
Morning	Afternoon	Evening
Weekend		
Sunday	Monday	Tuesday
Wednesday	Thursday	Friday
Saturday		

**AGREEMENT FOR NON-COMPENSATED SERVICES:** I hereby volunteer my services to the City of Yakima. The Volunteer agrees to abide by all relevant City policies and procedures and to perform the volunteer services in a safe, responsible manner in accordance with the descriptions of service.

It is further understood that this Agreement shall not in any way constitute nor create an employer/employee relationship between the City and the Volunteer. The City shall not be responsible for, or liable for, nor shall the applicant be eligible to receive, any compensation or benefits as a result of this Agreement EXCEPT for State Labor and Industries Industrial Insurance medical aid coverage.

I further understand that: *(Please initial each of the following)*

- \_\_\_\_\_ I am not to appear for volunteer service under the influence of any illegal drugs, alcohol or prescription drugs not prescribed to me. I agree to inform the supervisor at the beginning of the shift if taking any over-the-counter or prescription medications which may impair the ability to perform volunteer duties.
- \_\_\_\_\_ I will abide by all City policies regarding personal conduct while performing volunteer services.
- \_\_\_\_\_ I agree not to go beyond the scope of volunteer work agreed to without authorization.
- \_\_\_\_\_ I am to be trained on any activity that I am unfamiliar with, learn the corresponding policies, and it is my responsibility to understand them completely or ask questions until I feel confident to perform them.
- \_\_\_\_\_ I hereby identify that I am capable of performing duties without accommodation, or with the following accommodation(s): \_\_\_\_\_.
- \_\_\_\_\_ Depending on the scope of volunteer work, the following policies may apply: Accident Prevention and Safety, Facility Security/ID Badges, City Owned Technology Resources, Public Disclosure, Workplace Anti-Harassment, Confidentiality, Workplace Violence Prevention and Substance Abuse.
- \_\_\_\_\_ Should an injury occur during the scope of my service the City has included my hours of volunteer service in the State Labor and Industries coverage for volunteer workers. I am responsible for recording and reporting my hours to the City.
- \_\_\_\_\_ I understand that I am to report any on-the-job injury or illness, no matter how minor, to my supervisor. I authorize emergency medical care if it should become necessary.
- \_\_\_\_\_ I grant full permission to use any photographs, videotapes, motion pictures or recordings for publicity purposes by the City.

***(Continued on reverse)***



# CITY OF YAKIMA AGREEMENT FOR INDIVIDUAL VOLUNTEER SERVICE

## City of Yakima Agreement for Individual Volunteer Service, continued

**BACKGROUND CHECKS:** I consent to the City performing a background check into my history in accordance with RCW 43.43.830–839 and waive any right of privacy I may have in such information for the limited purpose of the City considering it for determining my suitability as a volunteer. (To be used for volunteers who will have unsupervised access to children, developmentally disabled persons, or vulnerable adults or who will be working with confidential information.) [Your full legal name and birth date are required to perform this background check.]

**TERMINATION:** I understand that I or the City may terminate this agreement at any time without cause, and that I am volunteering my services at will and may be asked to discontinue such without prior notice or reason.

**WAIVER & HOLD HARMLESS:** I am fully aware that the work associated with being a City Volunteer involves certain risks of physical injury or death. Being fully informed as to these risks and in consideration of my being allowed to participate in the City's Volunteer Program, I hereby assume all risk of injury, damage and harm to myself arising from such activities or use of City facilities. I also hereby individually and on behalf of my heirs, executors and assignees, release and hold harmless the City, its officials, employees and agents and waive any right of recovery that I might have to bring a claim or a lawsuit against them for any personal injury, death or other consequences occurring to me arising out of my volunteer activities.

**This agreement will be in effect for the duration of my volunteer services beginning this date.**

\_\_\_\_\_  
Volunteer's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Parent or Guardian  
(if volunteer is less than 18 years old)

**FOR DIVISION USE ONLY**

Division: \_\_\_\_\_

Program: \_\_\_\_\_ Estimated hours per week: \_\_\_\_\_

Program Supv. Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Documents required with Agreement:

**Volunteer**

**Unpaid Internship**

- Completed Volunteer Service Agreement
- Policy/Safety Acknowledgement form

- Completed City of Yakima Application
- Completed Volunteer Service Agreement
- Copy of school internship participation agreement
- Policy/Safety Acknowledgement form

**FOR HR USE ONLY**

Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_

Volunteer number assigned: \_\_\_\_\_ Program Supervisor emailed on (date) \_\_\_\_\_

**CITY OF YAKIMA**

**VOLUNTEER SAFETY RESPONSIBILITIES**

As a volunteer of the City of Yakima, I am responsible to:

1. Observe all city safety and health rules and apply the principles of accident prevention in my day-to-day duties.
2. Report any job-related injury, illness or property damage to my supervisor and seek treatment promptly.
3. Report hazardous conditions (unsafe equipment, floors, material, etc.) and unsafe acts to my supervisor or safety committee representative promptly.
4. Observe all hazard warning and no smoking signs.
5. Keep aisles, walkways and working areas clear of slipping/tripping hazards.
6. Know the location of fire/safety exits and evacuation procedures.
7. Keep all emergency equipment such as fire extinguishers, fire alarms, fire hoses, exit doors, and stairways clear of obstacles.
8. Not report to work under the influence of alcoholic beverages or drugs nor consume them while on city premises or during working hours.
9. Refrain from fighting, horseplay, or distracting my fellow workers.
10. Remain in my own area unless I am instructed otherwise.
11. Operate only the equipment for which I am authorized and properly trained.
12. Observe safe operating procedures for this equipment.
13. Walk at all times on city premises (no running) and take no unauthorized short cuts.
14. Follow proper lifting procedures at all times.
15. Ride as a passenger on a vehicle, only if it is equipped with a rider's seat.
16. Be alert to see that all guards and other protective devices are in their proper places and in proper working conditions prior to operating equipment.
17. Actively support and participate in the city's efforts to provide a safety and health program.

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SIGNATURE

NAME

DATE

**CITY OF YAKIMA**

**VOLUNTEER POLICY ACKNOWLEDGEMENT**

Please initial to acknowledge receipt of the following City of Yakima policies:

\_\_\_\_\_ I have received a copy of **policy 1-2300 Workplace Anti-Harassment**.

\_\_\_\_\_ I have received a copy of **policy 1-1800 Controlled Substance and Alcohol Use**.

I acknowledge it is my responsibility to read and adhere to all City of Yakima Policies which are accessible on City Ice and/or I may request a hard copy from Human Resources. I understand if I have any questions or concerns about City of Yakima policies, I will contact Human Resources or my supervisor.

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SIGNATURE

NAME

DATE



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DEPARTMENT: Human Resources

AUTHORIZED BY: City Manager / HR Director

EFFECTIVE DATE: 01/01/18

SUPERSEDES: 02/01/2009; 03/01/2012;  
02/16/2016

REISSUE DATE: 04/13/18

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***POLICY: WORKPLACE ANTI-HARASSMENT***

**PURPOSE**

The purpose of this policy is to specify fair and consistent practices for managers and employees which will promote a working environment free from unlawful harassment.

**POLICY SUMMARY**

This policy specifies the definition of harassment and the appropriate procedures and responsibilities for making, investigating and resolving harassment complaints.

**SCOPE AND APPLICABILITY**

This policy impacts all departments and all employees of the City of Yakima, including temporary and probationary employees. For regularly appointed employees who are represented under the terms of a collective bargaining agreement, this policy prevails except where it conflicts with the collective bargaining agreement or any memoranda or agreement signed pursuant to the collective bargaining process. Where federal or state laws or regulations impose more stringent requirements than this policy, employees shall observe the requirements of those laws.

**EDUCATION AND TRAINING**

The City of Yakima will provide education and training according to the following schedule:

1. As part of the on-boarding process, new employees will be directed to review and provide electronic acknowledgement of this policy.
2. Within 6 months of hire, each employee shall receive 2 hours of training on Workplace Anti-Harassment.
3. Annually, all employees will receive 1 hour of training in the form of a refresher course to review updates, revisions, etc.

## **POLICY**

### **1. Nondiscrimination**

It is the policy of the City of Yakima to provide a work environment for its employees that is free from discrimination and promotes equal employment opportunity for and equitable treatment of all employees. The City of Yakima will not tolerate harassment of its employees by co-workers, supervisors, managers, officials of the City, and from non-employees or other members of the public conducting business with the City or using City facilities.

### **2. Making a Harassment Complaint**

- A. Employees shall immediately report to any management representative any allegations or complaints of harassment. Depending on an assessment of the circumstances, reporting a harassment complaint to or discussing a harassment complaint with a management representative will result in an investigation.
  - 1. Employees may make informal inquiries about legal rights and agency procedures to the City of Yakima Human Resources Department and/or other government agencies with jurisdiction.
  - 2. Employees may seek confidential counseling and referral through the City's Employee Assistance Program. Contacting the Employee Assistance Program for counseling and referral does not constitute a harassment complaint.
- B. A harassment complaint may be oral or written. Where possible, it should include the date(s) the incident(s) occurred, name(s) of the individual(s) involved, name(s) of witness(es), and a description of the incident(s). It may also include a statement of the desired remedy.

### **3. Investigating Harassment Complaints**

- A. A management representative who is told or otherwise becomes aware that harassment may be occurring is obligated to immediately report the allegation or complaint to the alleged harasser's Department Head. The Department Head shall immediately inform the City Manager. In the event the alleged harasser is a Department Head, the management representative shall immediately report the allegation or complaint to the City Manager.
  - 1. The City Manager or his/her designee shall, as soon as practicable, consult with the Human Resources and/or Legal Department regarding the complaint.
  - 2. The City Manager or his/her designee shall, as soon as practicable, assess the need to prevent the alleged harasser from having contact with the alleged victim of harassment pending the outcome of an investigation.

B. Depending on an assessment of the circumstances, the City Manager or his/her designee will designate a qualified investigator to immediately commence an investigation of the complaint. The City Manager or his/her designee will first consider using an internal investigator. An internal investigator may be precluded and an outside investigator retained due to the following concerns:

- Workload issues preventing a timely investigation
- Specialized expertise in the facts, policy, or law involved
- Conflicts of interest or the potential for conflicts of interest
- Impartiality and/or the appearance of impartiality
- Complexity of the facts, policy, or law involved
- Other reasonable basis

If either the complainant or the alleged harasser raises a reasonable objection to an investigator at the time the investigator is designated, the City Manager or his/her designee shall attempt to reassign the investigation. In the event an outside investigator is retained, the City Manager or his/her designee will consider qualified investigators within the City of Yakima prior to considering qualified investigators elsewhere in eastern Washington and then beyond.

C. The investigator shall complete his or her investigation as promptly as possible while ensuring that the investigation is fair, complete, and impartial. The City shall endeavor to complete the investigation within 90 days. The City Manager or his/her designee shall regularly make contact with the complainant to inform the complainant about the status of the investigation and receive input on issues that may be impacting the complainant as a result of the complaint.

1. The investigation shall include interviews with the complainant and the alleged harasser and any other person(s) whom the investigator has reason to believe has information directly related to the complaint or the investigation thereof.
2. Where appropriate, the investigator shall assure compliance with employees' Weingarten rights, i.e. right to union representation, if any.
3. Employees shall cooperate fully with the investigation by answering the investigator's questions honestly and completely and complying with any other reasonable requests of the investigator. Failure to comply with these requirements subjects the employee to disciplinary action.
4. In order to ensure the integrity of the investigation, there may be some circumstances in which employees will be asked to maintain confidentiality about the allegations, the investigation, the identity of individuals interviewed, the questions asked by the investigator, the responses provided, or any other aspect of the investigation. This includes all forms of communication. A determination on the need for

confidentiality will be made by the City Manager, his/her designee, or the investigator, on a case-by-case basis, and the requirement of confidentiality may be imposed in instances when:

- Witnesses may need protection
- Evidence is in danger of being destroyed
- Testimony is in danger of being fabricated
- Confidentiality is otherwise supported by law to preserve the integrity of the investigation

If the City Manager, his/her designee, or the investigator, imposes such a requirement of confidentiality, any employee who fails to maintain confidentiality may be subject to disciplinary action, up to and including termination. However, in any case where confidentiality is imposed, the employee is free to discuss the matter with his or her union representative and/or attorney.

5. The investigator shall prepare and provide a report of the investigation to the City Manager or his/her designee.
  6. To the extent that it does not hinder the investigation or the resolution of the complaint and is permitted under local, state and federal laws, management representatives and any independent investigator shall maintain the confidentiality of a harassment complaint.
  7. Public records related to an investigation will be held in a confidential capacity during the pendency of an investigation to the extent permitted by law.
- D. To avoid duplication of efforts or otherwise conserve City resources, the City Manager or his/her designee may suspend or close an investigation for any reason that does not conflict with this policy, including the reason that the complainant is actively pursuing his or her complaint in another forum.

#### **4. Resolution of Harassment Complaints**

- A. If the investigation substantiates the complaint of harassment, the City Manager or his/her designee shall make a determination regarding the appropriate resolution, including disciplinary action. Before making a decision to impose disciplinary action, the City Manager or his/her designee shall ensure that the alleged harasser has been given the opportunity to review the results of the investigation, has been told of the evidence obtained, and has had an opportunity to provide a response to the outcome of the investigation. The City Manager or his/her designee shall take the alleged harasser's response into account before taking final action on the complaint.
- B. In addition to any disciplinary action taken, substantiated complaints may be referenced in the alleged harasser's first performance evaluation following the conclusion of the investigation.



- C. If during the course of the investigation, the investigator determines that the allegation or complaint of harassment or discrimination was reported to a management representative and that management representative failed to immediately report the allegation or complaint, the City Manager or his/her designee shall investigate and take appropriate action against the management representative, including disciplinary action if appropriate. In addition, the failure to report may be referenced in the management representative's first performance evaluation following completion of the investigation.
- D. Following determination of a substantiated complaint of harassment, the Human Resources Director or his/her designee should inquire of the complainant at a frequency and for whatever duration is appropriate to ensure that the harassment has not resumed and that the complainant has not been retaliated against for making a complaint.

## **5. Retaliation Prohibited**

Retaliation against a City employee for reporting allegations of harassment, bringing a complaint of harassment, providing honest information regarding a complaint of harassment, or participating honestly in an investigation of a complaint of harassment is prohibited and shall not be tolerated and may be grounds for discipline, up to and including termination of employment.

This policy does not constitute or imply a contract, agreement, promise or guarantee of employment or continued employment. The City reserves the right to change this policy at any time.

## **DEFINITIONS**

- A. "Harassment" shall mean verbal or physical conduct toward an individual because of his or her race, color, religion, creed, sex, sexual orientation, national origin, ancestry, age, disability, marital status, or honorably discharged veteran or military status, when such harassing conduct has the purpose or effect of unreasonably interfering with an individual's work performance or otherwise adversely affects an individual's employment opportunities. The term includes sexual harassment. The term also includes epithets, slurs, and negative stereotyping; threatening, intimidating or hostile acts; or written or graphic materials that denigrate or show hostility or aversion that is placed on walls, bulletin boards, electronic bulletin boards, e-mail or otherwise placed or circulated in the workplace; when such actions or materials are related to or directed at an individual or group because of race, color, religion, creed, sex, sexual orientation, national origin, ancestry, age, disability, marital status, or honorably discharged veteran or military status.
- B. "Harassment Complaint" shall mean any oral or written complaint alleging an incident or incidents of harassment made by an employee to a management representative, or any information obtained by a management representative indicating that harassment has occurred or may be occurring in the workplace.

- C. "Hostile Working Environment" shall mean harassment of such a severe or pervasive nature that it alters the conditions of the victim's employment and creates an abusive working environment.
- D. "Management Representative" shall mean any individual working at or above the level of supervisor who is responsible for directing the work of employees and who exercises independent judgment with respect to the direction of such work.
- E. "Retaliation" shall mean materially adverse action that is harmful to the point it could dissuade a reasonable worker from making or supporting a harassment complaint.
- F. "Sexual Harassment" shall mean deliberate or repeated behavior of a sexual nature that is unwelcome and unwanted. It can be verbal, non-verbal, or physical, and includes such behaviors as solicitation of sexual favors, discussing sexual activities, inappropriate commenting on physical appearance, using crude or offensive language, displaying sexually explicit or suggestive pictures, using indecent gestures, repeated invitations for dates after being told no, unwelcome touching, and sexual assault.
- G. "Sexual Orientation" shall mean heterosexuality, homosexuality, bisexuality, and gender expression or identity. As used in this definition, "gender expression or identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.

## **REFERENCE DOCUMENTS AND PROCEDURES**

- City of Yakima Administrative Code Policy 1-800, Equal Employment Opportunity, (formerly HR 1801, Equal Employment Opportunity, 2/1/2009).



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DEPARTMENT: Human Resources

AUTHORIZED BY: City Manager / HR Director

EFFECTIVE DATE: 01/01/18

SUPERSEDES: 04/17/2009; 12/14/2010;  
06/01/2016

REISSUE DATE: 04/13/18

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### ***POLICY: Controlled Substance and Alcohol Use***

#### **Purpose**

The purpose of this policy is to ensure the health, welfare, and safety of City employees, supervisors, managers, and City officials, as well as the citizens whom they serve, and to comply with federal mandates regarding controlled substance and alcohol use in the workplace. In keeping with this mission, the City of Yakima declares that unlawfully manufacturing, distributing, dispensing, possessing, or using controlled substances or misusing alcohol is prohibited for all employees.

#### **Policy Summary**

The procedures for this Policy are divided into three sections.

Section I applies to all employees and identifies: education and training, employee rights and responsibilities, prohibited acts, prescription drug use, treatment, discipline, testing procedures, records retention and confidentiality.

Section II applies to all employees that are not Commercial Driver's License ("CDL") holders or safety-sensitive employees as listed in Appendix A. This section identifies detection protocol.

Section III applies to all CDL holders and those employees in safety-sensitive positions as listed in Appendix A. This section identifies detection protocol.

#### **Scope and Applicability**

This policy applies to all permanent and temporary employees of the City of Yakima, as well as, any applicant applying for a position as defined within each section. It is a condition of employment that all employees abide by the terms of this policy.

#### **Policy**

It is the policy of the City of Yakima to provide a controlled substance and alcohol free work place for its employees. Counseling and support will be made available through an Employee Assistance Program (EAP), and the employees' right to privacy will be respected at all times.

The City of Yakima has developed and adopted this Controlled Substance & Alcohol Use Policy to comply with:

- Drug Free Workplace Act of 1988
- 49 CFR Part 655, Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations
- 49 CFR Part 40 Procedures for Transportation Workplace Drug and Alcohol Testing Programs

### **Administration**

The City's Human Resources Department is responsible for taking the necessary steps to ensure employees, supervisors, managers, and officials of the City comply with this policy.

### **Savings Clause**

It is understood that all provisions of this policy are subject to applicable Federal, State, and Local laws, and if any provision of any section of this agreement is found to be in conflict therewith, said provision shall be void. However, such invalidity shall not affect the remaining sections of this policy.

### **Procedures**

#### **Section I – All Employees**

##### **Education and Training**

The City of Yakima will provide education and training according to the following schedule:

1. As part of the on-boarding process, new employees will be directed to review and provide electronic acknowledgement of this policy.
2. New employees, within 6 months of hire, shall receive a minimum of 60 minutes of training on controlled substance abuse and alcohol use in the workplace.
3. Annually, all employees will receive a minimum of 60 minutes of training on the effects and consequences of controlled substance and alcohol use as it relates to personal health, safety, and the work environment. The training should also include common signs and symptoms that indicate controlled substance and alcohol use.
4. Annually all supervisors will receive an additional hour of training on alcohol misuse and an additional hour on controlled substance abuse. The supervisor training will cover the physical, behavioral, and performance indicators of probable alcohol misuse and controlled substance use.

##### **Prohibited Substances**

Use of controlled substances or drugs identified in the Drug-Free Workplace Act of 1988 or any drug / substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1308.11 through 1308.15 is prohibited at all times in the workplace except as specifically described below. This includes, but is not limited to: marijuana, amphetamines, opioids, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs.

The City of Yakima will apply Department of Transportation guidelines found in the Code of Federal Regulations 49 part 40 to all staff covered by this policy and thus any employee may be tested for these drugs just before, during or just after duty, subject to the specific Collective Bargaining Agreements.

1. Marijuana:

The personal use of marijuana is permitted by Washington state statute for recreational and medical use. However, federal law still prohibits the use and possession of marijuana. Employees need to be aware that use of marijuana in any form (recreationally or for medical purposes) is prohibited by this policy. The medical use of marijuana or the use of hemp related products that cause drug or drug metabolites to be present in the body is a violation of this policy even if prescribed for medical purposes.

2. Alcohol:

The use of beverages containing alcohol (including any mouthwash, medication, food, candy) or any other substances such that alcohol is present in the body while performing safety-sensitive job functions is prohibited. An alcohol test can be performed on a covered employee under 49 CFR Part 655 just before, during, or just after the performance of safety-sensitive job functions. Under the City of Yakima's authority, an alcohol test can be performed any time a covered employee is on duty.

### **Prescription Drug Use**

Except for marijuana, prescription and over-the-counter drugs are not prohibited when taken in standard dosage and/or according to a physician's prescription. Any employee taking prescribed or over-the-counter medications will be responsible for consulting the prescribing physician and/or pharmacist to ascertain whether the medication may interfere with the safe performance of his/her job.

If the use of a medication could compromise the safety of the employee, fellow employees, or the public, it is the employee's responsibility to use appropriate personnel procedures:

- call in sick
- notify supervisor – notification does not need to include the specific medication or condition which necessitates the medication
- use leave
- request change of duty
- provide a written release from his/her doctor or pharmacist indicating the employee can perform his/her safety-sensitive functions

The illegal or unauthorized use of prescription drugs is prohibited. It is a violation of this policy to intentionally misuse and/or abuse prescription medications. Failure to report the use of such drugs, or failure to provide proper evidence of medical authorization may result in disciplinary action up to and including termination.

### **Employee Rights and Responsibilities**

1. Any voluntary request by an employee for assistance with his/her own controlled substance and/or alcohol use problem will remain confidential and shall not be used as the basis for any disciplinary action, provided the request for assistance is initiated prior to a controlled substance and/or alcohol use related on-the-job incident or a positive controlled substance and/or alcohol test.
2. Any employee who observes or has knowledge of another employee in a condition

which impairs his/her ability to perform job duties or poses a hazard to the safety and welfare of others shall promptly report the incident to his/her immediate supervisor.

3. An employee who is the subject of a reasonable suspicion controlled substance and/or alcohol use investigation, or who requests or is required to submit to a controlled substance and/or alcohol use test in accordance with this policy shall be entitled to have a union representative or other individual of his/her own choosing accompany them to the testing facility, provided that such request for an observer does not cause an unreasonable delay.
4. An employee or applicant who wishes to challenge a positive controlled test must do so within 72 hours of notification of the positive result. The employee or applicant must notify the Medical Review Officer (MRO) that he/she wishes to challenge the test result. The re-test must be processed at a Department of Health and Human Services certified laboratory. The City will be responsible for seeking reimbursement from the employee for the costs necessary for the re-test, if the test results are the same.
5. It is the employee's responsibility to inform their health care professional of their job duties and have the physician determine whether or not the prescribed drug may impair their mental/motor function or job performance. The employee must disclose the use of such drugs to their supervisor and provide a written release from a medical professional indicating the employee can perform their job duties.
6. In the event of a failure of a drug test, the employee will be contacted by the MRO to determine if there is a medically valid reason for the failure. If a medically valid reason exists, the MRO may request the employee have their prescribing physician contact the MRO. The employee will have five days to comply with this request; failure to do so may result in a verified positive result.
7. It is the responsibility of the employee to remove themselves from service if they are experiencing any adverse effects from medication.
8. An employee required to undergo controlled substance and/or alcohol use testing shall be on city time for the time period necessary to conduct said testing. If the results of said testing are positive, the employee will be placed on paid administrative leave pending the investigative process. Once a determination has been made, the employee may use available personal leave or in the absence of no available personal leave, request leave without pay, in order to participate in a Substance Abuse Professional (SAP) evaluation and to comply with any corresponding SAP prescribed/recommended rehabilitation and/or treatment programs.
9. An employee who is convicted of any criminal drug statute for a violation occurring in the workplace shall notify the Human Resources Director no later than five days after such conviction.

### **Prohibited Acts**

1. No employee shall report for duty or remain on duty while under the influence of controlled substances or having an alcohol level of .02 or higher or having consumed any other substance which impairs an employee's mental or physical capacity.
2. No employee shall use a controlled substance or consume alcohol during work.
3. No employee shall unlawfully manufacture, distribute, dispense, use or possess a controlled substance or alcohol in the work place.

4. No employee shall refuse to submit to or willfully interfere with any controlled substance and/or alcohol test required in accordance with this policy. Any employee providing a urine specimen that is determined to be dilute will be required to provide another urine specimen. Under City of Yakima authority a second dilute sample can result in discipline up to and including termination.
5. No employee shall fail to attend and/ or cooperate in a treatment plan when required in accordance with this policy.
6. No employee shall be permitted to work following an alcohol test result indicating a concentration of 0.02 or greater but less than 0.04 until eight (8) hours following the administration of the test or the start of the employees next regularly schedule shift (but not less than 8 hours following the administration of the test)
7. No employee shall perform safety-sensitive functions within four (4) hours after using alcohol.
8. No employee required to take a post-accident controlled substance and/or alcohol use test shall use a controlled substance and/or alcohol for eight (8) hours following the accident or until he/she undergoes a post-accident controlled substance and/or alcohol test, whichever occurs first.
9. A supervisor having actual knowledge of any on-duty controlled substance and/or alcohol use or pre-duty controlled substance and/or alcohol within the four (4) hour prohibited time period by an employee cannot permit that employee to continue to perform their duties.
10. No employee who is "on-call" shall use a controlled substance or consume alcohol during the specified on-call hours.
  - The supervisor shall provide the employee an opportunity to acknowledge the use of controlled substances or alcohol at the time he/she is called to report for duty. The employee will be required to take a controlled substance and/or alcohol test if he/she acknowledges the use of controlled substances and/or alcohol at the time he/she reports for duty, but claims the ability to drive and/or perform his/her safety sensitive function.

### **Searches of City-Owned Property**

The City reserves the right to search, without employee consent, all City-owned property, and any property or area jointly or fully controlled by the City when reasonable cause exists to believe the search will reveal evidence of violation of this policy.

### **Treatment**

The City recognizes the value of trained, experienced employees, and, to the extent it deems treatment and rehabilitation are effective, it will pursue those avenues prior to resorting to disciplinary measures. The City offers employees the use of counseling and rehabilitative services pursuant to coverage limitations and in accordance with the terms of its benefit programs.

The use of counseling through the Employee Assistance Program (EAP) shall be authorized as outlined in the Employee Assistance Program Administrative Policy 1-600. The cost of treatment/rehabilitation shall be covered to the extent possible by existing labor contracts and

the applicable health benefit plan.

### **Discipline**

In all cases of suspected controlled substance and/or alcohol use in the work place, the Supervisor's Reasonable Suspicion Report shall be forwarded to the employee's department head for further action. An employee suspected of controlled substance and/or alcohol use shall be relieved of duty, with pay, following any required examination, and shall be required to notify the office of his/her department head of his/her whereabouts at all times for the duration of the investigation. The City's Human Resources Director and the department head will determine the course of treatment or discipline as provided below.

Disciplinary action resulting from enforcement of policy shall be in accordance with applicable Labor Agreements, City Administrative Code, and Civil Service Rules and Regulations. All established grievance procedures shall apply.

Disciplinary action for job misconduct in violation of this policy will be imposed up to and including termination when an employee does not make use of an approved treatment opportunity and the City finds discipline to be an appropriate response to the misconduct. An employee who has had treatment through the EAP and who subsequently commits misconduct in violation of this policy may or may not be offered another opportunity for treatment in place of discipline, depending on the seriousness of the job misconduct and the lapse of time since last in treatment through the EAP.

As required by the Federal Drug Free Work Place Act of 1988, within 30 days of the City receiving notice that an employee has been convicted of violating a criminal drug statute in the work place, the City will either take appropriate personnel action up to and including termination or require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved by a federal, state, or local health, law enforcement, or other appropriate agency.

1. A positive controlled substance and/or an alcohol test indicating an alcohol concentration of 0.02 or more shall be considered just cause for disciplinary action in accordance with the applicable Labor Agreements, City Administrative Code, and Civil Service Rules and Regulations
2. If an employee refuses to take a required alcohol test, there will be a presumption that the employee has a blood alcohol concentration of 0.04 or greater. If the employee refuses to take a required controlled substances test, there shall be a presumption the employee tests positive for one of the controlled substances. Refusal to submit to a required controlled substance and/or alcohol test shall be considered just cause for disciplinary action in accordance with the applicable Labor Agreements, City Administrative Code, and Civil Service Rules and Regulations
3. If an employee refuses or fails to comply with testing procedures, it shall be considered a positive test. The employee must:
  - a. Appear for any test within a reasonable time, as determined by the employer.
  - b. Remain at the testing site until the testing process is completed.
  - c. Permit the observation or monitoring of your provision of a specimen.
  - d. Must take a second test if directed to do so.
  - e. Must sign the certification at Step 2 of the chain of custody paperwork.
4. Any attempt by an employee to tamper with a urine sample or otherwise obstruct the testing process or any refusal by an employee to participate in a SAP evaluation and/or



comply with any corresponding SAP recommended/prescribed rehabilitation and/or treatment programs shall be considered just cause for disciplinary action in accordance with the applicable Labor Agreements, City Administrative Code, and Civil Service Rules and Regulations.

### **Testing Procedures**

All alcohol and controlled substance testing shall comply with DOT's Procedure for Transportation Workplace Drug and Alcohol Testing Programs, 49 CFR Part 40. These procedures are designed to ensure the accuracy and integrity of the test results and include screening tests, confirmation tests, chain of custody safeguards, and appropriate privacy and confidentiality protections.

Controlled substance testing will normally be performed by urinalysis at a test laboratory certified by the U.S. Department of Health & Human Services ("DHHS"). The test involves an initial screening performed by the enzyme multiplied immunoassay test ("EMIT"). Any positive test is then confirmed by a second test of the same sample by Gas Chromatography/Mass Spectrometry ("GC/MS"). The City's designated MRO shall receive and interpret test results and report them to the City.

Prior to reporting a positive test result, the MRO shall give the employee an opportunity to provide a medically valid reason for the positive test. Upon receipt of valid documentation, the MRO may further request the employee to have their prescribing physician contact their office; if requested the employee will have five (5) days to comply. If the employee meets with the MRO and fails to present information affecting the test result, or if the employee refuses to meet with the MRO, or if the five (5) day window passes, the MRO will verify a positive test result. Once verified, the MRO will inform the City's Human Resources Director or the City's Designated Employee Representative (DER) on a confidential basis that the employee tested positive. The MRO will also inform the employee at the time the test result is verified that he or she may request a "re-test" within 72 hours. Upon request, the employee shall be given a copy of the positive test results.

The City will seek reimbursement from the employee for the costs necessary to perform the re-test, if the test results are the same.

Alcohol testing will normally be performed by a trained breath alcohol technician ("BAT") utilizing an evidential breath testing device ("EBT"). Testing will take place at a site designated by the City. The BAT will inform an employee of the EBT results at the time of testing. If the screening test shows an alcohol concentration of greater than 0.02, a confirmation test will be conducted within 20 minutes of the screening test. If the confirmation test shows an alcohol concentration of 0.020 or greater, the BAT will show the employee the printed test results and shall notify the Human Resources Director, or the City's DER, of the test results.

In limited situations, such as where it is not possible to test by urinalysis or EBT, blood tests may be utilized to test for the presence of substances. If the blood test is utilized, the employee will normally be notified of the results by the MRO. An employee may make a written request for re-test of a test sample within 72 hours of receiving the test results. The City will seek reimbursement from the employee for the costs necessary to perform the re-test, if the test results are the same.

### **Records Retention**

The City is required to maintain a number of records regarding controlled substance and/or

alcohol testing.

1. The following records shall be maintained for a minimum of five years:
  - a. Alcohol tests results indicating an alcohol concentration of 0.02 or greater;
  - b. Verified positive controlled substances tests;
  - c. Documentation of refusals to take required controlled substance and/or alcohol tests;
  - d. EBT calibration documentation; and
  - e. Documentation of employee evaluations and referrals by SAPs, as related to disciplinary actions.
2. Records related to controlled substance and/or alcohol collection process and training shall be maintained for a minimum of two years.
3. Records of negative and canceled controlled substances tests and alcohol tests indicating an alcohol concentration of less than 0.02 shall be maintained for a minimum of one year.

#### **Confidentiality**

1. All records required to be retained under DOT rules and regulations shall be maintained in a secure location with controlled access.
2. Only City management representatives with a “need-to-know” responsibility will be made aware of controlled substance and/or alcohol test results.
3. Except as required by law or expressly authorized, the City shall not release information that is contained in records required to be maintained under the DOT rules and regulations.
4. Upon written request, an employee may obtain copies of any records pertaining to the employee’s use of controlled substances and/or alcohol.
5. All results of controlled substance and/or alcohol testing conducted pursuant to the DOT rules and regulations shall be made available, upon request, to appropriate government officials having regulatory authority over the City and its employees.
6. The City shall provide copies of records retained hereunder to potential employers when current or former City employees have signed and provided the appropriate authorization form to the City.

## **Section II – All employees that are not CDL holders or safety-sensitive employees as listed in Appendix A**

### **Reasonable Suspicion Testing**

An employee may be required to undergo a controlled substance and/or alcohol test when reasonable cause exists to believe the employee is under the influence of a controlled substance or alcohol and the steps outlined in the Supervisor's Reasonable Suspicion Report are followed. The decision to conduct a controlled substance and alcohol use test shall be made only after consulting with the supervisor's department head or the department head's management level designee.

The City shall not require an employee to undergo a controlled substance and/or alcohol screening test unless there is reasonable cause to believe the employee is under the influence of a substance which impairs job performance or which causes the employee to pose a hazard to the safety of the employee, the public, or other employees. Nothing in Section II of this policy is intended to require random testing of employees unless their collective bargaining agreement requires it.

Whenever an examination for reasonable suspicion is required under Section II of this policy, the supervisor shall accompany and advise the employee that he/she has the right to request additional samples of urine and/or blood be collected at his/her own expense. The employee may make separate arrangements with the City's testing facility or another laboratory chosen by the employee, for storing or testing these additional samples, but the employee will not have the right to handle samples after the original donation. The City will seek reimbursement from the employee for the costs necessary to perform the re-test, if the test results are the same.

### **Random Testing**

If any employee is covered by a collective bargaining agreement that stipulates random testing must occur, the City will follow the Random Testing Procedures in Section III of this policy.

### **Section III – ALL CDL holders and those employees in safety-sensitive positions as listed in Appendix A.**

#### **Pre-Employment Testing**

All prospective employees who have been given a conditional offer of employment with the City for a position covered herein and current employees transferring from a non- CDL or non-safety sensitive position to a position covered herein must undergo and pass a controlled substance and/or alcohol test. Receipt of satisfactory test results is required prior to employment in or transfer to an employment position covered herein.

Prospective or transferring employees who refuse to take the controlled substance and/or alcohol test or who test positive shall be considered ineligible for City employment positions covered herein for six months. In accordance with 49 CFR Part 40, when a covered employee or applicant has previously failed or refused a pre-employment drug test administered under this section, the employee must provide the employer proof of having successfully completed a referral, evaluation and treatment plan.

Pre-employment controlled substance testing is not limited to the controlled substances definition contained in this policy, and may include testing for other controlled substances such as depressants and hallucinogens.

#### **Random Testing**

Employees covered hereunder are subject to random testing in accordance with the following:

1. At least 25% of the average number of covered employees shall undergo random alcohol testing in each calendar year, or a sufficient number of employees equal to an annual rate not less than the minimum annual percentage determined by the DOT, FHWA, or FTA.
2. At least 50% of the average number of covered employees shall undergo random controlled substance testing in each calendar year, or a sufficient number of employees equal to an annual rate not less than the minimum percentage determined by the DOT, FHWA, or FTA.
3. An employee shall be subject to random controlled substance and/or alcohol testing while the employee is performing safety sensitive functions; just before the employee is performing safety-sensitive functions; or just after he employee has ceased performing safety-sensitive functions.
4. When a covered employee or applicant has not performed a safety-sensitive function for 90 consecutive calendar days regardless of reason, and the employee has not been in the employer's random selection pool during that time, the employer shall ensure that the employee takes a pre-employment drug test and receives a verified negative result.
5. The selection of employees for random controlled substance and/or alcohol testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made.

6. Random controlled substance and/or alcohol tests shall be unannounced and the dates for administering such random tests shall be spread reasonably throughout the calendar year.
7. Employees who are notified of selection for random controlled substance and/or alcohol testing shall proceed to the test site immediately; provided, however, that if the employee is performing a safety-sensitive function at the time of notification, the employee shall cease to perform the safety-sensitive function and proceed to the test site as soon as possible.

### **Reasonable Suspicion Testing**

Employees covered hereunder are subject to reasonable suspicion controlled substance and/or alcohol testing in accordance with the following:

1. Safety-sensitive employees are subject to a fitness for duty evaluation, including a controlled substance and/or alcohol test, when there is a reason to suspect they are under the influence of any prohibited drugs or alcohol immediately prior, during, or immediately after performing job duties or while at the work place.
2. An employee shall submit to alcohol and/or controlled substance test whenever a supervisor or manager has reasonable suspicion to believe the employee is under the influence or impaired by alcohol and/or a controlled substance. The required observations must be made during, just preceding, or just after the period of the work day that the employee is required to be in compliance with this policy. The employee shall be removed from duty immediately in order to undergo said testing.
3. A supervisor's or manager's determination that reasonable suspicion exists for alcohol and/or controlled substances use shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, and/or body odors of the suspected employee. The required observations must be made by a supervisor or manager who is trained in the detecting the symptoms of alcohol misuse and the signs and symptoms of drug use. The supervisor shall make a signed written record of his/her observations within 24 hours of the observed behavior or before the test results are released, whichever is earlier.
4. No employee shall be subject to reasonable suspicion alcohol testing later than eight (8) hours following the determination that reasonable suspicion exists to require the employee to undergo such test.
5. Reasonable suspicion controlled substance testing is not limited to the controlled substances definition contained in this policy and may include testing for other controlled substances such as depressants and hallucinogens.

### **Post-Accident Testing**

The FTA criteria for a covered accident after which drug and alcohol testing must be conducted, is as follows:

- Accident means an occurrence associated with the operation of a vehicle, if as a result:
  - an individual dies;
  - an individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident;
  - with respect to an occurrence in which the mass transit vehicle involved is a bus, electric bus, van, or automobile, one or more vehicles (including

- non-FTA funded vehicles) incurs disabling damage as the result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle;
- with respect to an occurrence in which the mass transit vehicle involved is a rail car, trolley car, trolley bus, or vessel, the mass transit vehicle is removed from operation.

Employees covered hereunder are subject to post- accident controlled substance and/or alcohol testing in accordance with the following:

1. Fatal Accidents – As soon as practicable following an accident involving the loss of human life, and regardless of fault, each surviving employee performing safety-sensitive functions in the subject vehicle at the time of the accident, and any other covered employee whose performance could have contributed to the accident, shall be tested for controlled substance and/or alcohol.
2. Non-Fatal Accidents – As soon as practicable following an accident not involving the loss of human life, each employee performing safety-sensitive functions in the subject vehicle at the time of the accident who received a citation under state or local law for a moving traffic violation arising from the accident, and any other covered employee whose performance could have contributed to the accident, shall be tested for controlled substance and/or alcohol.
3. If a post-accident alcohol test is not administered within two (2) hours following an accident, the supervisor of the employee shall prepare and maintain on file a record stating the reasons the test was not properly administered. If said test is not administered within eight hours (8) after the accident, the supervisor shall cease attempts to have the alcohol test administered and prepare and maintain on file a record stating the reasons the test was not done within said eight (8) hours.
4. If a post-accident controlled substances test is not administered within 32 hours of the accident, the supervisor shall cease attempts to have the controlled substances test administered and prepare and maintain on file a record stating the reasons the test was not done within said 32 hours.
5. An employee subject to post-accident testing shall remain readily available for such testing, including notifying his/her supervisor of his/her location if he/she leaves the accident scene. An employee who fails to do so shall be deemed to have refused to submit to testing. Nothing herein shall be construed to require the delay of necessary medical attention for the injured or to prohibit an employee from leaving the accident scene for the time period required to obtain emergency assistance.

### **Return-to-Duty Testing**

An employee who has engaged in and/or violated the controlled substance and/or alcohol prohibitions shall not be allowed to return to duty requiring performance of a safety-sensitive function until that employee has complied with the following:

1. If the employee has violated the alcohol prohibitions, he/she shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02, and the employee shall provide a true copy of the re-test results to his/her supervisor;
2. If the employee has violated the controlled substances prohibitions, he/she shall undergo a return-to-duty observed controlled substances test with a result indicating a verified

negative result for controlled substances use, and the employee shall provide a true copy of the test results to his/her supervisor;

3. The employee has been evaluated by a SAP who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and/or controlled substances use;
4. The employee has complied and remains in compliance with any and all SAP prescribed/recommended rehabilitation and/or treatment programs;
5. The employee may use any available accumulated leave or request unpaid administrative leave, in order to participate in an SAP evaluation and to comply with prescribed/recommended rehabilitation and/or treatment programs.

### **Follow-Up Testing**

Upon completion of a SAP prescribed/recommended rehabilitation and/or treatment program and successful return to work, an employee will be subject to observed follow-up testing for alcohol and/or controlled substances. An employee shall be subject to follow-up alcohol testing only when the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing safety-sensitive functions. The SAP shall determine the frequency and duration of the follow-up testing, but such shall consist of at least six (6) unannounced tests in the first twelve months (12) months following the employee's return to duty. After that period of time, the SAP may recommend additional follow-up testing or termination of follow-up testing. Follow-up testing shall not go beyond sixty months after the employee returns to duty. Once the employee is released from the SAP, their name will be released to the DMV.

## **DEFINITIONS**

For the purpose of this policy, the following terms have the meanings indicated:

*Accident* – an occurrence associated with the operation of a vehicle if, as a result:

- An individual dies;
- An individual suffers a bodily injury and immediately receives medical treatment away from the accident scene;
- A vehicle sustains disabling damage and is transported away from the accident scene by a tow truck or other vehicle; or
- A revenue service vehicle is removed from revenue service.

*Alcohol* – the intoxicating agent in beverage alcohol, ethyl alcohol, and/or other low molecular weight alcohol including methyl and isopropyl alcohol.

*Alcohol Concentration/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.

*Alcohol Test* – a test conducted by a Breath Alcohol Technician (BAT), or any other person approved by the Department of Transportation rules, using an Evidential Breath Testing Device (EBT) to measure the amount of alcohol concentration in a volume of breath; provided, however, that a blood alcohol test may be used instead of a breath test when an employee is unable to provide a sufficient amount of breath or a BAT is not readily available.

*Alcohol Use* – the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

*Breath Alcohol Technician* – an individual who instructs and assists individuals in the alcohol testing process and operates EBT devices.

*Commercial Motor Vehicle* – a motor vehicle or a combination of motor vehicles used in commerce to transport passengers and/or property if the motor vehicle:

- Has a gross weight of 26,001 or more pounds, including combined weight if towed
- Unit has a gross vehicle weight rating of more than 10,000 pounds;
- Is designed to transport 16 or more passengers, including the driver;
- Is of any size and is used to transport materials found to be hazardous for purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Material Regulations (149 CFR 172, subpart F).

*Confirmation Test* –

- For alcohol testing, a confirmation test means a second test, following a screening test with a result of 0.02 or greater that provides quantitative data of alcohol concentration.
- For controlled substances testing, a confirmation test means a second analytical procedure to identify the presence of a specific controlled substance or controlled substance metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy.

*Controlled Substance* – substance whose dissemination or use is controlled by regulation or statute, including, but not limited to alcohol, narcotics, depressants, stimulants, hallucinogens, and cannabis. (Controlled substances include cocaine, marijuana, opioids, amphetamines, phencyclidine, and any other substance determined by the DOT or its agencies to be a controlled substance.)



*Controlled Substance Test* – method for determining the presence of controlled substances in a urine sample using a scientifically reliable method performed in accordance with procedures specified in 49 CFR part 40, as amended.

*Conviction* – finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of Federal, State, or City drug laws.

*Counseling* – participation in a substance abuse counseling program provided through the City of Yakima Employee Assistance Program (EAP).

*Criminal Drug Statute* – criminal law involving the manufacture, distribution, dispensing, use or possession of any controlled substance.

*Controlled substance and alcohol use* – the use of a substance, including medically authorized drugs, which impairs job performance or poses a hazard to the safety and welfare of the employee, the public, or other employees.

*Designated Employer Representative* – A Human Resources Specialist authorized by the Human Resources Director to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer.

*Failing a Controlled Substance or Alcohol Test* – the controlled substance or alcohol test showed positive evidence of the presence of a controlled substance or alcohol in an employee's system that is at or above a determined threshold level. This determination shall be made by the City MRO under the same standards as passing a substance test. Failing a substance test shall be referred to as "testing positive." Employees who refuse to take a substance test when requested to do so shall be considered to have failed the substance test.

*Evidential Breath Test Device* – a device approved by the National Highway Traffic Safety Administration (NHTSA) and placed on the NHTSA's Conforming Products List (CPL) and is used for the testing of breath for the presence of alcohol.

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

*Medically Authorized Drugs or Substances* – drug or substances prescribed by a licensed practitioner/physician or dentist for use in the course of medical treatment.

*Passing a Controlled Substance Test* – An individual passes a controlled substance test when a MRO determines, in accordance with the DOT procedures, that the results of the test:

- Showed no evidence or insufficient evidence of a controlled substance or controlled substance metabolite;
- Showed evidence of a controlled substance or controlled substance metabolite for which there is a legitimate medical explanation;
- Showed evidence of a controlled substance or controlled substance metabolite below

- a determined threshold level; or
- Were suspect because of irregularities in the administration of the test, or observation, or custody and control procedures.
- Passing a controlled substance test shall be referred to as “testing negative.”

*Passing an Alcohol Test* – the alcohol test result shows an alcohol concentration of less than 0.04. Passing an alcohol test shall be referred to as “testing negative.”

*Reasonable Cause* – All of the facts and circumstances available at the time of an incident which would lead any reasonable person to the same conclusion.

*Refusal to Submit* – the employee fails to provide adequate breath or urine for testing without a valid medical explanation, or if the employee refuses to submit to a blood test if necessary or the employee engages in conduct that clearly obstructs the testing process.

*Revenue Service Vehicle* – A vehicle used to transport fare paying passengers, including a bus or trolley bus.

*Safety-Sensitive Position* – A position that requires the performance of one of the following safety-sensitive functions:

- Operating a revenue service vehicle, including when the vehicle is not in revenue service;
- Operating a non-revenue service vehicle, when required to be operated by a holder of a CDL;
- Controlling dispatch or movement of a revenue service vehicle;
- Maintaining a revenue service vehicle or equipment used in revenue service, unless the recipient receives section 18 funding and contracts out such services. Maintaining a revenue service vehicle includes any act which repairs, provides upkeep to a vehicle, or any other process which keeps the vehicle operational. It does not include cleaning the interior or exterior of the revenue service vehicle or transit facility; and
- Carrying a firearm for security purposes aboard a revenue service vehicle.

*Screening Test*–

- For alcohol testing, a screening test is an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in his/her system.
- For controlled substances testing, a screening test means an immunoassay screen (or other Department of Health and Human Service (DHHS) - approved test) utilized to eliminate “negative” urine specimens from further consideration.

*Substance Abuse Professional* – a licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (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 controlled substances related disorders.

*Test Refusal* The following are considered a refusal to test if the employee:

- Fails to appear for any drug or alcohol test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable agency regulations, after being directed to do so by the employer.
- Fails 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 for a pre-employment test is not deemed to have refused to test.
- Fails to provide a urine or saliva/breath specimen for any drug or alcohol test,

required by this part or City regulations; Provided, That an employee who does not provide a urine or saliva/breath 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.

- Tamper, adulterates, or substitutes a specimen.
- In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen.
- Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.
- Fails or declines to take an additional drug or alcohol test the employer or collector has directed you to take.
- Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under. 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. If there was no contingent offer of employment, the MRO will cancel the test.
- Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behaves in a confrontational way that disrupts the collection process, fails to wash hands after being directed to do so by the collector).
- For an observed collection, fails to follow the observer's instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
- Possesses or wears a prosthetic or other device that could be used to interfere with the collection process.
- Admits to the collector or MRO that you adulterated or substituted the specimen. As an employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test. Further, if you refuse to take a drug or alcohol test, you incur the consequences specified under City regulations for a violation of those City regulations.
- Fails or refuses to sign the certification at Step 2 of the alcohol testing form.
- Leaves the scene of an accident without just cause prior to submitting to a test.

*Unreasonable Delay* – delay of the testing procedure for a period of time which would render the test useless or inaccurate.

*Work Place* --The workplace is defined as any location that the employee is at while being paid by the City

*Written Medical Authorization* – prescription or other written approval from a licensed practitioner/physician or dentist for the use of a drug in the course of medical treatment. The authorization must include the name of the substance, the period of authorization, and whether the prescribed medication may impair job performance.

### **REFERENCE DOCUMENTS**

The following document is related to this policy and may be obtained from the Human Resources Department:

- Supervisor's Checklist for Controlled Substance and Alcohol Use
- Appendix A – List of Covered Positions



# City of Yakima

## Supervisor's Reasonable Suspicion Report

Manager / Supervisor: This form is to be used to substantiate and document the objective facts and circumstances leading to a reasonable suspicion determination. When suspected violations are observed, this form must be completed as soon as possible and forwarded to the Human Resources Department.

Employee \_\_\_\_\_ Job Title \_\_\_\_\_ Employee Number \_\_\_\_\_

Date \_\_\_\_\_ Time Observed \_\_\_\_\_ Location \_\_\_\_\_

Evaluating Supervisor \_\_\_\_\_ Dept. Director \_\_\_\_\_

Think about the following as you observe the employee:

How is their speech—is it slurred? Do they appear confused or disoriented? Is there an odor of alcohol or marijuana? Are they unsteady? Do they have glassy eyes or rapid eye movement; very large or very small pupils? Do they have tremors or shaking? Are they being verbally or physical abusive?

Describe the behavior or incident creating reasonable suspicion:

Appearance (eyes/grooming): \_\_\_\_\_

Odor on breath or clothes:

Speech and balance/walking: \_\_\_\_\_

Supervisors Action: \_\_\_\_\_

Employee's Response / Comments:



# City of Yakima

(Appendix A)

## Classifications by Division

### **Equipment Rental:**

Equipment Maintenance Supervisor  
Mechanic II  
Mechanic I  
Fleet Maintenance Attendant

### **Irrigation:**

Irrigation Crew Leader  
Irrigation Specialist II  
Irrigation Specialist I

### **Refuse:**

Solid Waste Supervisor  
Solid Waste Crew Leader  
Solid Waste Maintenance Worker

### **Streets:**

Street Maintenance Supervisor  
Street Maintenance Crew Leader  
Street Maintenance Specialist

### **Transit:**

Transit Manager  
Transit Operation Supervisor  
Transit Field Operations Supervisor  
Transit Route Supervisor  
Transit Service Worker  
Transit Dispatcher  
Transit Operator

### **Wastewater:**

Sewer Maintenance Supervisor  
Sewer Maintenance Crew Leader  
Sewer Maintenance Specialist II  
Sewer Maintenance Specialist I  
WWTP Chief Operator\*  
WWTP Operator III\*  
WWTP Operator II\*  
WWTP Operator I\*

### **Water:**

Waterworks Crew Leader  
Waterworks Specialist II  
Waterworks Specialist I  
Waterworks Device Technician

\*Not all employees in these job classification are required to have a Commercial Driver's License. Those who do are in our random pool of employees for testing