

abilities can be effectively utilized. It is also the policy of the City to continually review its employment practices and take positive steps to help all City employees realize their full employment potential and assure that equality of opportunity with the City is a fact, as well as an ideal.

Sec. 8.703 Application

This policy shall be uniformly applied by all levels of management in every department and component of the City. Each department head and supervisor is responsible for the application of this policy within his/her component. This includes all supporting programs and practices developed in accordance with this policy. To achieve ultimate effectiveness in the application of this policy, the cooperation, support and commitment of every employee is essential. All employees of the City are responsible for cooperating with any reviews, investigations and other activities initiated within the framework of this policy.

Sec. 8.704 Internal Communication

Copies of the Affirmative Action Plan (AAP) will be distributed to all City of Ladonia departments and organizational units. All employees will be informed of the existence of the AAP and will be provided reasonable access to complete copies. Additionally, the EEO policy statement will be:

- (1) Transmitted to all supervisory, administrative and management personnel with a special cover statement from the Mayor emphasizing the importance of the policy;
- (2) Included in summary in City operating manuals, handbooks and annual reports;
- (3) Included in the Personnel Policies Manual, which is transmitted to all department heads and supervisors;
- (4) Included in the Employee Handbook, which is distributed to all City employees;
- (5) Posted on bulletin boards in the City offices.

Sec. 8.705 External Communication

Copies of the EEO policy statement and summary statements of the AAP will be distributed to the news media, chambers of commerce, community organizations and other entities as feasible and appropriate. Additionally, the EEO policy statement will be:

- (1) Distributed to all normal recruiting sources used by the City, including the Texas Employment Commission;
- (2) Distributed to local organizations having special contacts with minority organizations;
- (3) Transmitted to all contractors, vendors, and suppliers who do business with the City;
- (4) Incorporated in summary on application forms, purchase orders, contracts and reports released to the public.

Sec. 8.706 Implementation Responsibilities

The primary responsibility for the success of the AAP rests with the Mayor and the duly elected and appointed officials. The basic implementation responsibilities of these elected and appointed officials are:

- (1) Commitment of City of Ladonia's resources in support of equal employment opportunity;
- (2) Designation of an EEO Coordinator to develop and implement strategies to carry out the AAP;
- (3) Assignment of implementation responsibilities to elected and appointed officials and other key administrators;
- (4) Transmittal of letter to all City employees requesting their cooperation and reiterating the City's policy in support of EEO.

Sec. 8.707 Mayor/EEO Coordinator

The Mayor will serve as Equal Employment Opportunity Coordinator. The basic responsibilities of the EEO Coordinator will be as follows:

- (1) Develop procedures for implementation of the AAP.
- (2) Work closely with elected and appointed officials in identifying EEO problem areas within their department and arriving at solutions;
- (3) Conduct EEO orientation and training for elected and appointed officials, supervisors, and key administrative staff;
- (4) Complete all required EEO reporting forms;

- (5) Maintain liaison with state and federal agencies with EEO compliance functions;
- (6) Maintain liaison with community organizations and citizen groups with interests in EEO/Affirmative Action activities;
- (7) Receive and investigate internal allegations of discriminatory employment practices by the City.
- (8) Review and evaluate annually the City's AAP and propose changes and provisions.
- (9) Intensify employee recruitment programs to ensure employment opportunity information is widely disseminated among minority and women recruiting sources.
- (10) Review and analyze employment procedures to ensure that selection processes are job-related and to prevent the establishment of artificial barriers to employment of minorities, women and the handicapped.

Sec. 8.708 Elected and Appointed Officials

The basic implementation responsibilities of the elected and appointed officials will be to:

- (1) Assure full and fair consideration of all candidates for initial appointment and promotional opportunities in their organizational units;
- (2) Foster a climate for EEO in their organizational units by informing all employees under their control of the City's commitment to EEO, and by ensuring that all work unit supervisors comply with the established EEO policy;
- (3) Assist the Mayor/EEO Coordinator in analyzing the utilization of minorities and women in their respective departments;
- (4) Monitor day-to-day progress of EEO within their organizational units;
- (5) Refer employee who has complaints of alleged discrimination to the Mayor/EEO Coordinator and provide them with copies of the City's procedure for registering this type of complaint.

Sec. 8.709 Job Analysis

To ensure that the City of Ladonia classification plan does not contain factor which arbitrarily discriminate minorities, older workers, women and the handicapped, job descriptions will be periodically reviewed, evaluated and revised to ensure that:

- (1) Job descriptions accurately describe the work of the positions allocated to the class;
- (2) All requirements are job-related;
- (3) Requirements of or restrictions on age, sex or physical characteristics are deleted unless they are proved to have a direct relationship to the job;
- (4) Unnecessarily narrow experience requirements which reduce competition for promotions and transfers between departments are eliminated.

Sec. 8.710 Upward Mobility

To assure equal opportunity for career development and advancement for all employees:

- (1) Trainee classes will be established in all instances where feasible, with minimum qualifications to be commensurate with duties and responsibilities;
- (2) Capable, lower-level employees will be assisted in planning for career development through counseling by supervisors and training to qualify for higher-level positions;
- (3) An inventory of the current skills and abilities of employees will be maintained to aid in the identification of persons to be trained and promoted;
- (4) Promotion patterns will be reviewed and evaluated annually in order to assure that minorities, women, older workers, and the handicapped have equal consideration for promotion;
- (5) Promotion requirements, including supervisory evaluations, oral examinations, written tests, and other qualification requirements, will be required and evaluated annually to assure that such requirements are job related.

Sec. 8.711 Recruitment

(a) The purpose of City of Ladonia's recruitment program is to attract qualified applicants for job positions which are currently or soon to be available. Recruitment activity will attempt to provide as many applicants for each available job positions as

possible, since the chance of getting qualified applicants is increased as the number of applicants is increased.

(b) All job advertisements shall reflect the City's commitment to EEO. Advertisements which express a preference or limitation by sex will be prohibited unless sex is determined to be a bona fide occupational qualification (BFOQ). Advertisements which expressly indicate, or can be interpreted as indicating a preference or limitation based age—such as 'young', 'boy', 'girl', 'college student', etc.—will not be used unless determined to be a BFOQ. The City's commitment to EEO will be further demonstrated by:

- (1) Placing classified ads only under listings that do not reflect sex;
- (2) Including the phrase "Equal Opportunity Employer";
- (3) Emphasizing that all applicants will be judged on merit;
- (4) Listing jobs at all levels with the Texas Employment Commission;
- (5) Including job-related information on job announcements.

Sec. 8.712 Sources of Recruitment

In an attempt to reach all segments of the community in the recruiting process, the following recruiting sources will be utilized as appropriate for advertising purposes:

- (1) Classified advertising—local and out-of-town newspapers;
- (2) Journal advertising—to reach selected technical and professional groups;
- (3) Employee referrals—referrals from employees currently on board;
- (4) Applicant files—application forms filled out by applicants who were turned down or rejected will be filed away for future reference; applicants considered unsuited for one position may be qualified for others;
- (5) Educational institutions—the local high schools, trade and vocational schools, and business colleges will be used where possible as a source for office personnel, apprentices and trainees for a variety of semi-skilled jobs; colleges and universities within the geographic region will be used to recruit for management trainees and specialized professionals such as accountants, engineers, et cetera;
- (6) Texas Employment Commission—the TEC will be utilized for all jobs;

- (7) Protected Group Community Organizations—the facilities and resources of organizations serving women, minorities, the handicapped and older workers.

Sec. 8.713 Selection

Only those informational items that are job-related will be included on the application form. The kinds of questions to be included are:

- (1) Information required by law or needed for government reports and employee benefit programs;
- (2) Information needed to communicate with the employee or his family;
- (3) Information needed to see if applicant matches the job requirements;
- (4) Information needed to check on the validity of the applicant's responses on the application form. To the extent possible, items needed for identification and statistical purposes will be obtained after an applicant is hired.

Sec. 8.714 Interviews

The selection interview will be used to assess job-related qualities. Interviews will be standardized and structured so that only questions concerning job specifications and requirements will be asked of the applicant.

Sec. 8.715 Placement

- (a) The Mayor and other duly elected and appointed officials will be responsible for administering the final phase of the selection process, which consists of notifying applicants for employment of the decision to accept or reject their application.
- (b) A decision to reject an applicant will take into account City of Ladonia's commitment to EEO. In light of this commitment, a record will be maintained of the reason or reasons why an applicant was rejected. Where feasible, the unsuccessful job candidate will also be given, upon request, the reason or reasons for the decision.
- (c) The top applicant who has successfully completed the selection process will be formally offered the job by the Mayor or appropriate elected or appointed official. The job offer will confirm the specifics of the job, working hours, wages and what to bring and where to report.
- (d) The applicant who has been offered employment, has accepted, and is assigned to the job position for which he/she was recruited will undergo orientation.

Sec. 8.716 Orientation

(a) The Mayor/EEO Coordinator, the appropriate elected or appointed official, and the work unit supervisor shall each have an obligation to help their employees become acquainted with their jobs at the earliest possible moment. How well new employees perform is largely dependent upon how well they understand and accept what is expected of them on the job.

(b) The new employee will be initially oriented by the Mayor/EEO Coordinator. The initial orientation will cover what City of Ladonia expects from the employee in regard to personnel rules and procedures, and what the employee can expect from the city in regard to pay and benefits. The new employee will then be directed to the appropriate elected or appointed official or work unit supervisor for the next step in his/her orientation. The elected/appointed official or work unit supervisor shall orient the new employee of the following:

- (1) The work environment, including familiarization with the work site;
- (2) The work staff, including the line of authority, an introduction to supervisory and associate employees;
- (3) Departmental working procedures and practices.

(c) The entire orientation program shall be formally structure to assure that all employees are fully oriented. Adherence to the orientation program as structured shall be mandatory for all involved—the new employee, the Mayor/EEO Coordinator, the appropriate elected/appointed official, and the work unit supervisor.

Sec. 8.717 EEO Compliance Training

Provisions will be made for key administrators, all department heads and all work unit supervisors to:

- (1) Receive orientation on the Affirmative Action Plan, overall EEO program; and the administrating of the policies and procedures incorporated therein;
- (2) Examine and react to policies, practices, and behaviors that enhance or inhibit equal employment opportunity in the City of Ladonia;
- (3) Receive in-service training in such subject areas as the principles of EEO and human relations.

Sec. 8.718 Employee Skill Development

Provisions will be made to assure that:

- (1) Training opportunities designed to develop skills needed to improve current performance, to qualify for higher-level positions, or to fill positions which are likely to be available in the future, will be provided to all employees on a non-discriminatory basis;
- (2) Current and proposed training programs will be examined to ensure their relevance to both the present and projected staffing needs of City of Ladonia, and the identified training needs of the employees;
- (3) An inventory of the current skills and abilities of employees will be developed to aid in the identification of persons to be trained.

Sec. 8.719 Employee Utilization Analysis

(a) In order to assist in the identification of possible underutilization of members of the protected groups (that is, minorities, women, handicapped and older workers), the Mayor/EEO Coordinator will conduct annually a survey and analysis of the City's labor force. This survey and analysis will:

- (1) Identify the number and percentage of protected group members currently employed in each department, office or division, by job classification;
- (2) Identify to the extent possible, the protected group members currently available for employment in the City's normal recruiting areas by determining:
 - (A) the protected group population
 - (B) the number of non-minorities
 - (C) the availability of protected group members with needed skills
 - (D) the capability of the City to provide training for protected group members in all job classifications.

(b) A comparison of the percentage of protected group members currently employed by the City and the availability of protected group members in the local labor area will indicate the extent of underutilization.

(c) In addition to the labor force survey and subsequent analysis, the Mayor/EEO Coordinator will analyze, for EEO implications, statistical records and other information pertaining to the following:

- (1) Applicant Population
- (2) Individual Salary Adjustments
- (3) Appointments
- (4) Disciplinary Actions
- (5) Temporary Employees
- (6) Separations
- (7) Performance Evaluation
- (8) Grievances and Appeals
- (9) Failure of Probation
- (10) Duty Assignments

This analysis will be used to identify any internal problem areas impacting on EEO.

Sec. 8.720 Goals

(a) City of Ladonia is committed to the spirit and ideals of equal employment opportunity. An immediate and continuing goal of the City is to assure equal opportunity for all job applicants and members of the City's work force, and to work to correct any existing underutilization of minorities, women, handicapped and older workers as promptly as feasible. The work force in every department, work unit, and office of the City will be analyzed annually and goals for the utilization of protected group members within the respective work unit shall be set. Another immediate goal shall be the development of supportive programs. The Mayor/EEO Coordinator shall develop programs to promote and support the EEO and Affirmative Action commitments within the organization and the community at large. Programs will include:

- (1) Development of EEO grievance procedures for all employees, including an EEO Review Committee;
- (2) Development of a program of exit interviews to determine whether or not discrimination is a factor in employee terminations.

(b) Affirmative Action will be an outreach effort to ensure skills (which are available or which can be developed) are effectively utilized. The City shall not employ or promote a less qualified person over a more qualified person to satisfy a numerical goal. Numerical goals will be used to provide a meaningful way of evaluating the effectiveness of the City's EEO program. The final proof of the City's plan of affirmative action to achieve equal employment opportunity will be to achieve a mixture of employees approximately equivalent to the composition of the local labor force. Numerical goals will be determined by the employee utilization analysis outlined in Step X above.

Sec. 8.721 EEO Program Evaluation

(a) The Affirmative Action Plan will be reviewed annually to see if the plan is bringing City of Ladonia into conformity with EEO intent. A reporting system will be developed and implemented by the Mayor/EEO Coordinator to continually monitor and evaluate the progress of the plan.

(b) The report will include actions taken in the execution of the Affirmative Action Plan during the previous year, the basis and reasons for the actions and the results of the actions. The reporting system will indicate where revisions and adjustments need to be made in the planned activities of the Affirmative Action Plan. It will be used as a basis for establishing new actions for the ensuing year.

(c) The evaluation by the Mayor/EEO Coordinator will include the greatest possible involvement by appropriate elected and appointed officials and work unit supervisors. The Mayor/EEO Coordinator shall make an annual report on the Affirmative Action Plan.

(Ordinance adopted 12/12/94)

ARTICLE 8.800 POLICE RESERVE FORCE***Sec. 8.801 Establishment**

An auxiliary police force to be known as police reserve is hereby established. It shall be composed of personnel who have volunteered to join the organization and whose application for membership has been accepted and who have complied with all the rules, regulations and orders provided for the conduct and control of the members thereof. It shall be composed of not to exceed twenty (20) members. The police reserve shall be separate and extinct from the police department of this city but shall be headed by the chief of police.

Sec. 8.802 Chief of Police to have Control

The members of the police reserve shall be under the authority, control and command of the chief of police of the City of Ladonia subject to all of the provisions of the City Charter, Ordinances of the city and of this ordinance. Members shall be appointed from a list of eligibles compiled as hereinafter provided.

Sec. 8.803 List of Eligibles

A list of eligibles accompanied by a complete set of finger-prints or supplemented immediately by finger-printing by the police division, which finger-prints shall be

* State Law reference—Establishment of police reserve force, V.T.C.A., Local Government Code, Section 141.007.

checked by the Identification Bureau to ascertain any criminal record of such person. The application shall state the residence of the applicant. The applicant shall furnish satisfactory proof of good character, temperate habits, freedom from communicable diseases and physical ability to perform the duties of the position for which he seeks appointment. He shall furnish three (3) references and attach letters of recommendation from said references, to the application. The application shall be on the form prescribed by the chief of police. All names upon a list of eligibles shall subscribe to an oath that he will observe and obey the Constitution of the United States, the Constitution of this State, and the laws of this nation, this state and this city and that he will carry out the duties of a member of the police reserve force of this city to the best of his ability.

Sec. 8.804 Duties

(a) The duties of the police reserve force, subject at all times to the direction, supervision and control of the chief of police, shall be to assist the regular members of the police department of this city in the enforcement of law and the maintenance of peace; and order during periods of emergency designated by the chief of police. The chief may by order establish rules and regulations to govern the police reserve force, to fix specific duties or its members, and to provide for the maintenance of discipline. He may change such orders from time to time, and he may command members of the police reserve force to obey the instructions of regular police officers in carrying out their orders.

(b) The chief may prescribe other duties than those mentioned herein to be performed by the police reserve force, not inconsistent with the provisions hereof.

Sec. 8.805 Identification

An identification card or such other insignia or evidence of identity as the chief may prescribe shall be issued to each member, who must carry the card and other identification at all times while on duty, and he must surrender them upon the termination of his membership. All commissions shall expire automatically at midnight on the 31st of December in any year. A renewal of said commission for any next ensuing year may be had by filing an application by any holder of any commission. Said applications shall consist of a post card properly filled out by the applicant giving his full name and address and giving the number of his existing commission. This application shall be filed with the chief of police. If application for renewal is not presented on or before January 31st of the year for which renewal is sought, then anyone desiring a commission as a member of the police reserve shall make application as in the first instance where an applicant did not hold a commission.

Sec. 8.806 Removal from Membership - Resignation

Membership of any person may be terminated by the chief of police at any time for any cause deemed sufficient by the chief of police, any member may resign from the police reserve at any time, but it shall be the duty to notify the chief of his resignation.

Sec. 8.807 Diminishing the Force

The chief of police may by order diminish or expand the membership of the police reserve force as exigency may require, within the limit herein before established.

Sec. 8.808 Power of Authority

(a) Carrying of firearms. Members of the police reserve force shall while on duty carry firearm on the express written order of the chief of police.

(b) Breaking and entering. No member of the police reserve force shall break into or otherwise forcefully enter upon private property or enter the dwelling or habitation of another person without the consent of the member of the police department of this city who then and there requests his aid in the enforcement of the law.

(c) Power of arrest. A member of the police reserve force shall have the following powers of arrest and none others:

- (1) He may arrest for a public offense committed in his presence;
- (2) He may arrest a person who had in fact committed a felony not in his presence;
- (3) When a felony has in fact been committed, he may make an arrest when he has reasonable cause for believing the person arrested to have committed it.
- (4) He may go lend physical aid to any regular member of the police department in making any lawful arrest, when authorized by the chief of police, or requested by any regular member of the police department of this city.

Sec. 8.809 Summary Dismissal and Publication

In addition to the penalties provided by law, any violation of law under color of the performance of his duties as a member of the police reserve force, and any breach of the rules and regulations established by the chief of police shall subject any member of summary expulsion and the fact thereof may be published at the order of the chief.

Sec. 8.810 False Impersonation

It shall be a misdemeanor punishable by a fine in accordance with the general penalty provision found in Section 1.106 for any person to wear, carry or display a police reserve force identification card or otherwise deceitfully represent himself to be connected with the police reserve force, unless he is in fact a member thereof in good standing.

Sec. 8.811 Chief of Police Prescribes Uniforms and Badges

The chief of police shall prescribe the uniforms and badges for the members of the police reserve force and direct the manner in which the same shall be worn. Any person other than a member of said force who shall wear such uniform or badge as may be prescribed shall be guilty of a misdemeanor and upon conviction shall be subject to a fine as provided for in the general penalty provision found in Section 1.106 of this code.

(Ordinance adopting Code)

ARTICLE 8.900 DRUG-FREE WORKPLACE POLICY**Sec. 8.901 General Provisions****(a) Policy.**

- (1) This policy applies to all city employees, both full and part-time, including all police department employees. All employees shall be aware that violation of this policy can result in disciplinary action up to and including dismissal.
- (2) All employees of the City of Ladonia are required to refrain from the use of illegal drugs. Persons who use illegal drugs, on or off duty, are not suitable for employment with the city. The use, possession, or sale of illegal drugs by any employee, on or off duty, is strictly prohibited. Further, it is the policy of the City of Ladonia that employees shall not be under the influence of alcohol while on duty or on call.
- (3) An employee who is under the influence of, who uses, or who possess illegal drugs or alcohol during working hours or on city property is subject to immediate disciplinary action, up to and including dismissal. Employees reasonably suspected to be under the influence of alcohol or illegal drugs shall be prevented from engaging in further work of any sort and will give the city sufficient reason to subject them to immediate testing in accordance with the procedure set forth in this policy.
- (4) The city will cooperate fully in the prosecution and/or conviction of any violation of the law.

(b) Status; Interpretation; Changes.

- (1) The city reserve the right to interpret the provisions of this policy. The city can unilaterally adopt a new policy, or rescind, modify, or amend this policy. These actions can be taken by the city at any time, with or without notice.

- (2) This policy does not change or affect the at will employment status of city employees, which means that the employment relationship can be ended by either the city or the employee at any time, with or without cause, and with or without notice. Further, as a result of this policy no employee shall have any property right in their job or any expectation of continued employment with the city. The provisions of this policy are not contractual in nature. That is, these provisions do not form the basis of any contract between the city and the employee.

(c) Consistent With Other Requirements. The provisions of this policy shall apply in addition to, and shall be subordinated to, any requirements imposed by applicable federal or state laws, regulations, or judicial decisions. To the extent possible, this policy is to be applied and interpreted consistently with all requirements of state and federal law such as, for example, the Texas Commission on Law Enforcement Officer Standards and Education requirement of a pre-employment examination by a licensed physician for drug dependency or illegal drug use, by physical examination, blood test, or other medical test.

(d) Public Officials. In recognition of the special role and the public trust placed in the city's elected and appointed officials, this policy will apply to those officials; provided, however, "pre-employment" drug screening will not apply to elected officials or to appointed officials. Any action to be taken in accordance with this policy regarding an elected or appointed official shall be initiated by the mayor or mayor pro-tem, and any further action shall be taken, if at all, in accordance with the Texas Local Government Code and other applicable law. Violation of the provisions of this policy by any elected or appointed official of the city shall constitute official misconduct and shall constitute sufficient cause for removal from office when established as provided by law.

Sec. 8.902 Definitions

The following words used in this policy shall have the meaning given:

City premises or property. All city property including equipment, vehicles, land, buildings, and parking lots, whether leased, owned, or being used for city purposes.

Controlled substance. Any substance listed in Schedules I-V of Section 202 of the Controlled Substance Act (21 U.S.C. Section 812), as amended. Copies are maintained for employee review by the city administrator.

Drug. A drug is any chemical substance that produces physical, mental, emotional, or behavioral changes in the user.

Drug paraphernalia. Equipment, a product, or material that is used or intended for use in concealing an illegal drug or for use in injecting, ingesting, inhaling, or otherwise introducing into the human body an illegal body or controlled substance.

Fitness for duty. To work in a manner suitable for the job. To determine “fitness,” a medical or psychological evaluation may include drug and/or alcohol testing.

Illegal drug. An illegal drug is any drug or drug derivative, the use, possession, sale, transfer, attempted sale or transfer, manufacture, or storage of which is illegal or regulated under any federal, state, or local law or regulation. Further, the term illegal drug includes, but is not limited to, a prescription drug used for any reason other than a legitimate medical reason, and inhalants used illegally. Included is marijuana or cannabis in all forms.

Negative test results. Negative test or tested negative results indicate no alcohol or illegal drugs in the employee’s system other than properly used prescription medication.

Positive test results. Positive test or tested positive results indicate alcohol or illegal drugs are present in the employee’s system other than properly used prescription medication.

Reasonable suspicion. Means an articulable belief based on specific facts and reasonable inferences drawn from those facts that an employee is under the influence of illegal drugs or alcohol. Circumstances which constitute a basis for determining “reasonable suspicion” may include, but are not limited to:

- (1) a pattern of abnormal, unusual, or erratic behavior;
- (2) information provided by a reliable and credible source;
- (3) possession of illegal drugs, drug paraphernalia, or direct observation of drug use;
- (4) presence of the physical symptoms of illegal drug use (i.e., glassy or bloodshot eyes, slurred speech, poor coordination or reflexes); or
- (5) involvement in a work-related accident.

Under the influence. A state of having a blood alcohol concentration of 0.10 or more, where “alcohol concentration” has the meaning assigned to it in Article 67011-1, Texas Revised Civil Statutes, as amended; or the state of not having the normal use of mental or physical faculties resulting from the voluntary introduction into the body of an alcoholic beverage or a controlled substance.

Sec. 8.903 Drugs for Which Individuals Will Be Tested

When drug testing is required under the provisions of this policy, a urinalysis test will be given to detect the presence of the following drug groups.

(a) Drug Groups.

- (1) Amphetamines/Methamphetamine (e.g. Speed, Crystal)
- (2) Benzodiazepines (e.g. Valium, Librium, Oxazepam, Serax, Dalmane, Ativan)
- (3) Barbiturates (e.g. Amobarbital, Butabarbital, Pentobarbital, Phenobarbital, Secobarbital)
- (4) Cocaine
- (5) Methodone
- (6) Methaqualone (e.g. Quaalude)
- (7) Opiates (e.g. Codeine, Heron, Morphine, Hydromorphone, Hydrocodone)
- (8) Phencyclidine (PCP)
- (9) THC (Marijuana)
- (10) Alcohol
- (11) Inhalants (used illegally)
- (12) Other controlled substances.

(b) Breath testing for alcohol may be required in accordance with this policy; however, the personnel actions provided in this policy, e.g. preventing the employee from engaging in any further work, may be implemented without further testing when physical symptoms or manifestations of alcohol use give rise to a reasonable suspicion of alcohol use.

(c) The test threshold level for each drug group will be based on testing laboratory standards that ensure a drug is genuinely present when a positive result occurs and that rule out inadvertent exposure to a drug group where that is a possibility.

Sec. 8.904 General Standards for Drug Testing(a) Job vacancy announcements; pre-employment drug screening.

- √ (1) Every job vacancy announcement shall state:

“Any applicant tentatively selected for this position will be required to submit to drug testing prior to employment.”

- (2) All applicants for employment by the city shall be required as part of the pre-employment process to undergo drug testing for the presence of the drug groups set forth in this policy. Applicants who refuse to consent to drug screening will not be considered for employment.
 - (3) An applicant who has a positive test result after an initial drug testing by the enzyme-multiplied immunoassay techniques (EMIT) test and a confirmatory test using the gas chromatography/mass spectroscopy (GC/MS) test shall not be eligible for hire by the city until the expiration of one (1) year from the date of their testing. An applicant who has tested positive shall be eligible to reapply for city employment upon the expiration of such one (1) year period; provided however, that the applicant shall be subject to retesting prior to employment.
- (b) Drug screening for current employees.
- (1) The city may require an employee to undergo drug testing if there is a reasonable suspicion that the employee is under the influence of illegal drugs or alcohol during work hours.
 - (2) An employee who refuses to consent to a drug test when reasonable suspicion of illegal drug or alcohol use has been identified is subject to disciplinary action up to and including dismissal. The reason for the refusal shall be considered in determining the appropriate disciplinary action.

Sec. 8.905 Employee Responsibility

Employees of the city must:

- (1) not report to work or be subject to duty while their ability to perform job duties is impaired due to alcohol or illegal drug use, on or off duty;
- (2) not use illegal drugs or alcohol while on duty or on city property;
- (3) not engage in unauthorized use or possession of prescription drugs, or the unauthorized use of non-prescription drugs, on or off duty;
- (4) not directly or through a third party sell or provide drugs or alcohol to any person or to any other employee while either employee or both employees are on duty or "on-call";
- (5) submit immediately to reasonable requests for a drug and/or alcohol test when requested by a responsible city representative;

- (6) notify his/her supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of city equipment; and
- (7) provide within twenty-four (24) hours of request a current valid prescription for any drug or medication identified when a drug test is positive. The prescription must be in the employee's name.

Sec. 8.906 Management Responsibilities and Guidelines

(a) The city administrator, department heads, and supervisors are responsible for consistent enforcement of this policy. Any such person who knowingly permits a violation of this policy by an employee under his/her direct supervision shall be subject to disciplinary action.

(b) Any supervisor requesting an employee under his/her supervision to submit to a drug and/or alcohol test should immediately notify his/her department head, or the city administrator. Should the department head or the city administrator concur that there is a reasonable suspicion that the employee is under the influence of illegal drugs or alcohol, the following procedure shall immediately be applied:

- (1) the city administrator, department head, or supervisor should document in writing the facts constituting reasonable suspicion that the employee in question is intoxicated or under the influence of illegal drugs or alcohol;
- (2) the supervisor or other person requesting an employee to submit to a drug and/or alcohol test shall be responsible for the employee's transport to the drug testing laboratory where the drug and/or alcohol test will be performed; and
- (3) any supervisor or other person encountering an employee who refuses to submit to a drug and/or alcohol test upon request shall remind the employee of the requirements and consequences of this policy. Any employee refusing to submit to a drug and/or alcohol test shall not be forced to submit to such testing. The supervisor should provide transport for the employee to his/her home.

Sec. 8.907 Consent to Drug Testing

(a) Before a drug test is administered, employees or applicants will be asked to sign a consent form authorizing the test and permitting release of test results to the city administrator, or other person designated by the city administrator. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the city's drug testing policy.

- (b) The consent form shall also set forth the following information:
- (1) the procedure for confirming an initial positive test result (see Section 9.0 below);
 - (2) the consequence of a confirmed positive test result; that is, disciplinary action up to and including dismissal; and
 - (3) the consequences of refusing to undergo a drug test; that is, disciplinary action up to and including dismissal.

Sec. 8.908 Drug Testing Procedure

- (a) The initial drug screening shall be by the enzyme-multiplied immunoassay techniques (EMIT) test which shall be administered by city expense. An employee or job applicant whose drug test yields a positive result shall be given a second test, at city expense, using a gas chromatography/mass spectroscopy (GC/MS) test. The second test shall use a portion of the same employee or applicant test sample used in the first test.
- (b) If the two (2) tests result in one (1) positive and one (1) negative result, the overall test is considered negative.
- (c) If the second test confirms the positive test result, the employee or applicant shall be notified of the results in writing by the appropriate department head, the city administrator, or designee using a standard form. The written notification shall identify the particular substance(s) found and its concentration level.
- (d) An employee or applicant whose second test confirms the original positive test result may, at the employee's or applicant's own expense, have a third test conducted on the same sample at a laboratory selected by the city meeting minimum criteria for drug testing.

Sec. 8.909 Procedure

- (a) All drug testing of employees and applicants shall be conducted at medical facilities or laboratories selected by the city. A medical facility or lab must maintain written procedures approved by the city that will be used to maintain test samples. These procedures shall, at a minimum, include:
- (1) testing procedures which ensure privacy to employees and applicants consistent with the prevention of tampering;
 - (2) methods of analysis which ensure reliable test results, including the use of gas chromatography/mass spectroscopy to confirm positive test results;

- (3) chain-of-custody procedure which ensure proper identification, labeling, and handling of test samples; and
 - (4) retention and storage procedures which ensure reliable results on confirmatory tests of original samples.
- (b) At the test site, the employee or applicant will be given a form on which he/she may list any medications taken or any other legitimate reasons for having been exposed to drugs within the last thirty (30) days. The form will be sealed in an envelope that will not be opened unless the test is positive.
- (c) Processing of Samples. Upon receipt of the same from the applicant or employee, the individual supervising the testing will test the temperature of the specimen and initiate the processing of the sample. The sample shall be sealed by the employee and the individual supervising the testing will sign the sealed sample. The sample will be labeled with a control number and the date and time the specimen was obtained, and it shall require refrigerated atmosphere until tested. The seal will only be broken by the individual performing the analysis. In order to protect the chain of custody, any person handling the sample must sign for it.
- (d) Privacy in Drug Testing. Specimen samples shall be provided in a private restroom stall or similar enclosure so that employees and applicants may not be viewed while providing the sample. Street clothes, bags, briefcases, purses, and other containers may not be carried into the test area. The water in the commode may be colored with blue dye to protect against dilution of test samples.

Sec. 8.910 Confidentiality of Test Results

(a) All information from an employee's or applicant's drug test is confidential and only those with a need to know are to be informed of test results. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the employee. All records relating to the taking of a drug test or the order to take a drug test shall be deemed confidential unless written authorization has been obtained from the employee or the records become the subject of a personnel grievance proceeding or a judicial proceeding. All records relating to the taking or ordering of a drug test shall be kept by the city administrator in a secure, separate file. The city administrator and department heads shall implement procedures to prevent the unauthorized distribution of the results of or the order to take a drug test. The city will, without exception, punish any breach of privacy and confidentiality in this regard.

(b) The results of a positive drug test shall not be released until the results are confirmed. The records of unconfirmed positive test results and negative test results shall be handled in accordance with all applicable laws and regulations.

Sec. 8.911 Training

The city shall provide a program of training to assist supervisory personnel in identifying illegal drug and alcohol use among employees. Such training will be directed towards helping supervisors recognize the conduct and behavior that gives rise to a reasonable suspicion of use.

Sec. 8.912 Prior Notice of Testing Policy

The city shall provide written notice of its drug testing policy to all employees and job applicants by providing to each a copy of this policy. Further, a standard notice shall be prominently displayed in city hall which shall contain the following information:

- (1) the need for illegal drug and alcohol testing;
- (2) the circumstances under which testing may be required;
- (3) the procedure for confirming an initial positive drug test result;
- (4) the consequences of a confirmed positive test result;
- (5) the consequences of refusing to undergo a drug test; and
- (6) the availability of drug abuse counseling and referral service.

Sec. 8.913 Use of Drug-Sniffing Dogs; Searches

The city may use properly trained and supervised drug-sniffing dogs to conduct unannounced inspections of the property and facilities owned and operated by the city to detect the presence of illegal drugs. Further, the city reserves the right based on reasonable suspicion to conduct searches or inspections of an employee's person, personal effects, or any city property. Searches of the person shall include the emptying of pockets and the production of items concealed in clothing, but shall not include a pat-down search. All searches will be conducted by a police officer or other peace officer. Any item found believed to be in violation of this policy will be confiscated and the individual will be given a receipt for the item(s).

Sec. 8.914 Consequences of a Confirmed Positive Test Result

If an employee's positive test result has been confirmed, the employee is subject to disciplinary action up to and including dismissal. Factors to be considered in determining the appropriate disciplinary response include the employee's work history, length of employment, current job performance, and the existence of past disciplinary actions. Employees are encouraged, prior to an incident giving rise to the circumstances which constitute a basis for the administration of a drug test, to voluntarily identify themselves

as drug users, and obtain counseling and rehabilitation through an employee assistance program ("EAP") approved by the city administrator or his or her designee. The employee must thereafter refrain from violating the city's policy on drug abuse. Disciplinary action based on a violation of the city's drug policy is not automatically suspended by an employee's participation in the EAP.

Sec. 8.915 Employee Assistance Program (EAP) Referral

Upon the first confirmed positive drug test, the employee may request referral to the EAP for assessment, counseling, and rehabilitation. Participation in the EAP is voluntary. Disciplinary action based on a violation of the city's drug policy is not automatically suspended by an employee's participation in the EAP and may be imposed when warranted by this policy or other appropriate authority. The city will participate in the cost of the EAP to the extent of the city's insurance coverage.

(Ordinance adopting Code)