Outlook

# Fw: Message from "RNP583879A8887D"

**From** Margaret McMorrow-Love <mml@lovelawfirm.legal>
**Date** Mon 8/24/2026 10:23 AM
**To** Robert Johnston <robert.johnston@clintonok.gov>

1 attachment (1,010 KB)
Updated drug and alcohol testing policy.pdf;

Attached is  a draft and clean copy of a proposed updated drug and alcohol testing policy to comply with the new statute that goes into effect on Nov. 1st-- It will need to be posted 10 days in advance per state law on changes to drug and alcohol testing policies.

Please call if you have any questions

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**From:** lovelawscans@gmail.com <lovelawscans@gmail.com>
**Sent:** Monday, August 24, 2026 10:54 AM
**To:** Margaret McMorrow-Love <mml@lovelawfirm.legal>
**Subject:** Message from "RNP583879A8887D"

This E-mail was sent from "RNP583879A8887D" (IM C3010).

Scan Date: 08.24.2026 10:54:47 (-0500)
Queries to: lovelawscans@gmail.com

## APPENDIX "C"

## ALCOHOL & CONTROLLED SUBSTANCE POLICY AND TESTING PROCEDURES

**Section 1. Policy Statement:** The City recognizes the importance of having a drug and alcohol free workplace. The abuse of drugs, alcohol or other chemical substances endangers the safety of the public, the employee, and other City employees. The City recognizes that it is in its best interest, as well as the best interest of its employees and the public, to prevent and eliminate drug, alcohol and/or substance abuse in the work place. ~~Any employee found using, possessing, selling, distributing or being under the influence of an illegal chemical substance and/or alcohol during working hours or while on City property or while using City equipment will be subject to discipline up to and including termination of employment.~~ The unlawful manufacturing, distribution, dispensing, possession, sale, transfer, purchase, use or being under the influence of controlled substances or alcohol while on duty, while operating city vehicles or equipment, while on city property, while at the workplace, during working hours or while fulfilling employment obligations including representing the City is prohibited and will subject the individual to disciplinary action up through possible termination of employment.

Nothing in this policy is to be construed as requiring the City to permit or accommodate the possession, consumption, use, transfer, display, transportation, sale or being under the influence/impairment of marijuana while at work, while on city property, while operating city equipment or vehicles, or while performing official city duties nor limit the ability of the City to prohibit employees from performing duties for the City while impaired by marijuana.

The City retains the right and authority to implement and enforce written drug and alcohol policies regarding testing and impairment in accordance with the Oklahoma Standards for Workplace Drug and Alcohol Testing and the Oklahoma Medical Marijuana and Patient Protection Act.

**Section 2. Effective Date:** This policy will be effective ten (10) days after official posting in a prominent place at all City facilities where employees routinely report for duty and following distribution of the policy to all employees. In addition, a copy will be given to each applicant for employment upon receipt of a conditional offer of employment.

**Section 3. Application:** This policy applies to all employees as well as all applicants for employment once they have received a conditional offer of employment. This policy will comply with the Oklahoma Standards for Workplace Drug and Alcohol Testing Act, 40 O.S. §551 *et. seq.* (the "Act") as amended from time to time.

**Section 4. Applicant Pre-Employment Testing:** All applicants for designated positions will undergo drug and/or alcohol testing following a conditional offer of employment but prior to final hiring and assignment. Refusal to undergo a test, or a positive test, will result in the City withdrawing its conditional offer of employment. In addition, adulteration of a specimen for a drug or alcohol test will be considered as a refusal to undergo a test.

**Section 5. For Cause/Reasonable Suspicion Testing:** Drug and/or alcohol testing may be conducted on any employee at any time the City has reasonable suspicion that there is cause to believe that an employee may be under the influence of drugs or alcohol, including, but not limited to, the following circumstances:

5.1 Observation of drugs or alcohol on or about the employee's person or in the employee's vicinity;

5.2 Observation of conduct on the part of the employee that suggests that the employee is impaired or is under the influence of drugs or alcohol;

5.3 Receipt of a report of drug or alcohol use by an employee while at work ;

5.4 Information that an employee has tampered with drug or alcohol testing at any time;

5.5 Negative job performance patterns by the employee; or

5.6 Excessive or unexplained absenteeism or tardiness.

The supervisor will verbally inform the employee of the reason for the test. Additionally, a written record of the situation leading to the drug or alcohol test will be created and signed by the supervisor(s) within 24 hours of the event. A copy of the report will be forwarded to the City Manager. A checklist form for determining whether reasonable suspicion exist to justify a test is attached as Exhibit "1" to this policy.

The employee involved must stop work immediately and will be transported as soon as possible to the designated testing facility by a management/supervisory employee. The employee will not be allowed back to work until the results of the test are known.

**Section 6. Post Accident Testing:** Post-Accident drug and/or alcohol testing may be conducted on an employee where there has been damage to City property or equipment while the employee was at work or the employee or another person has sustained an injury while at work. The post accident test will be administered while the employee is still on duty or as close to as possible. No employee required to take a post accident alcohol or drug test may use any alcohol or drugs, of any kind, following the accident until he/she undergoes the post accident testing.

**Section 7. Random Testing:** The City may, at various times, randomly select members of the following employment groups, at its discretion, for unannounced random testing for drugs or alcohol:

a. paid police officers and paid firefighters;

b. employees who have drug interdiction responsibilities ;

c. employees authorized to carry a firearm;

d. employees engaged in activities which directly affect the safety of the public including, but not limited to, emergency medical personnel; dispatchers; and water and waste water treatment personnel;

e. employees whose work involves direct contract with inmates in the custody of the Department of Correction or who work in direct contact with juvenile delinquents or children in need of supervision in the custody of the Department of Human Services; or

f. employees for whom testing is mandated or authorized by the Omnibus Transportation Employee Testing Act, as amended from time to time, and the U.S. Department of Transportation regulations applicable thereto including employees who must have a CDL to perform the functions of their positions.

**Section 8. Periodic Scheduled Testing:** The City may require an employee in any of the employment groups identified in Section 7 above to undergo drug or alcohol testing as part of a routinely scheduled employee fitness for duty examination or in connection with the employee's return to duty from a leave of absence.

**Section 9. Post Rehabilitation Testing:** The City may require an employee to undergo drug and/or alcohol testing, without prior notice, for a period of up to two (2) years after the employee's return to work following a confirmed positive test result or following participation in a drug or alcohol dependency program. Post-rehabilitation testing will be conducted in addition to any other testing the employee is subject to under this policy.

**Section 10. Substance for Which Tests May Be Given**: The City reserves the right to test for all drugs and for the presence of alcohol. The test for drugs may include, but not be limited to: amphetamines, cannabinoids, cocaine, phencyclidine (PCP), hallucinogens, methaqualone, opiates, barbiturates, benzodiazepines, synthetic narcotics, designer drugs, illegal steroid or a metabolite of any of the above.

Threshold reporting levels will be those established and maintained by the Federal Department of Transportation and as utilized by the National Institute for Drug Abuse (NIDA). Any positive levels below those established reporting levels will not be reported to the City's Review Officer by the testing laboratory.

**Section 11. Methods and Documentation:** Collection, storage, transportation, testing facilities and testing procedures will be conducted in accordance with rules established by the State Board of Health. Samples may be collected on the premises of the City at its election. Body component samples will be collected with due regard to the privacy of the individual being tested. In no case may any City employee directly observe collection of a urine sample. A written record of the chain of custody of the sample will be maintained until the sample is no longer required.

All sample testing will conform to scientifically accepted analytical methods and procedures. Testing will include confirmation testing of any positive test results by gas chromatography, gas chromatography-mass spectroscopy, or an equivalent scientifically accepted method of equal or greater accuracy as approved by the State Board of Health at the cut off levels as determined by the State Board of Health. In the case of the use of Breathalyzer testing method, no discipline may be imposed unless there is a confirmation test performed on a second sample that confirms the prior results.

An applicant or employee will be given the opportunity to provide notification of any information which he/she considers relevant to the test, including currently or recently used drugs or other relevant information. In the event that an employee wishes to challenge the results of the City's test, he/she may do so as provided in this policy. The employee must have had the sample collected within one hour of the City's sample and such retest must be in accordance with the standards set forth by the State Board of Health and in this policy.

**Section 12. Costs:** The City is responsible for all costs associated with drug or alcohol testing. However, if an employee or applicant requests a confirmation test of a sample within twenty-four (24) hours of receiving notice of a positive test result in order to challenge the results of the positive test, the employee or applicant is responsible for the cost of the confirmation test unless the confirmation test reverses the findings of the challenged positive test. In such case, the City will reimburse the employee for the cost of the confirmation test.

**Section 13. Refusing to Undergo Testing or Tampering with Sample:** Employees refusing to undergo testing according to the terms of this policy will be subject to disciplinary action up to and including termination. Adulteration of a specimen or of a drug or alcohol test will be considered as a refusal to undergo a test and will result in disciplinary action up through and including termination of employment.

**Section 14. Review Officer:** The City will contract with a Review Officer who will receive confirmed positive test results from the testing facility and evaluate those results in conjunction with the subject employee and/or applicant. The Review Officer will be qualified by the Board of Health to receive, interpret and evaluate the test results. Upon receiving a confirmed positive test result, the Review Officer will contact the applicant or employee prior to notification of City officials. The applicant or employee will be given the opportunity to explain the test results.

**Section 15. Confidentiality:** The City will treat all tests and all information related to such test, as confidential materials. All records relating to drug testing will be kept separate from personnel records. The records are the property of the City but will be made available to the affected applicant or employee for inspection and copying upon request and will also be available for review by the City Review Officer. Except as set forth below, the records will not be released to any person other than the applicant or the employee without that person's express written permission. However, the City may release the records:

a. to comply with a valid judicial or administrative order;

b. as admissible evidence in a case or proceeding before a court of record or administrative agency if the employee or the City is named as a party in the case or proceeding; or

c. to employees or agents of the City who need access to the records in connection with the administration of this Policy and the Oklahoma Standards for Workplace Drug and Alcohol Testing Act.

**Section 16. Disciplinary Action:** The City may elect to take disciplinary action, up to and including termination of employment, against an employee who: 1) tests positive for drugs and/or alcohol; 2) refused to test under this policy; or 3) adulterates a specimen for a drug or alcohol test.

16.1 Positive Test Results: The City will evaluate the employment history of any employee who tests positive for drugs and/or alcohol. The appropriate course of action will be determined based on the employee's total work record. Where deemed appropriate by management, an employee may be offered the opportunity to enter into a rehabilitation program. Continued employment will be contingent upon the successful completion of a rehabilitation program and an agreement to undergo periodic drug and/or alcohol post-rehabilitation testing for up to two (2) years. However, the City reserves the right to initiate disciplinary action, up to an including termination of employment, for the first positive test result. Any decision regarding disciplinary action under this policy by management will be final and binding.

16.2 Employees who have tested positive, and who have been offered the opportunity to participate in a rehabilitation program in lieu of termination of employment, will not be allowed to return to work until they can provide a verified negative "return to work" test from a City approved facility. An employee may be allowed a maximum of 12 weeks to provide a verified negative "return to work" drug or alcohol test. If a negative test is not provided within 12 weeks, the employee will be terminated from employment. Until a negative "return to work" test is supplied, the employee will be on leave without pay. However, an employee may request permission to use accrued sick leave and vacation leave. An employee may request a "return to work" test no sooner than two weeks from a positive test result, and subsequently every other week thereafter, until a negative "return to work" test is obtained. Employees refusing to seek help or submit to testing in accordance with this policy will be subject to disciplinary action.

16.3 In the event the City does not terminate the employment of an employee who has a positive test result, the employee who enters a rehabilitation program after the positive test results will be permitted to do so only once. Any future recurrence for abuse with the same or any other substance will result in termination of employment.

16.4 An employee who is discharged from employment on the basis of refusal to undergo drug or alcohol testing or based on a positive drug or alcohol test will be considered as having been discharged for misconduct for the purpose of unemployment compensation and the City will protest any application for unemployment benefits.

**Section 17. Prohibitions:** No employee may report for duty within four hours after using alcohol or remain on duty while having an alcohol concentration of 0.04 or greater, and no supervisor will permit any employee to perform any work duties if the supervisor is aware the employee has an alcohol concentration of 0.04 or greater. No employee will be on duty or operate a City vehicle/equipment or perform job duties while in possession of alcohol nor use alcohol during duty time. Further, no employee may report for duty, drive a City-owned vehicle, operate City equipment or remain on duty when the employee has used any controlled substance, except when the use is pursuant to the instructions of a physician and where the physician has advised an employee the substance will not adversely affect an employee's ability to drive a vehicle or operate equipment. No supervisor having knowledge that an employee has used a controlled substance may permit an employee to be on duty or drive/operate any City vehicle or equipment.

**Section 18. Responsibilities of Individuals:** In order to comply with the provisions of this policy, each employee assumes the following responsibilities:

18.1 Working Under the Influence of Performance Impairing Medication: Employees who have been prescribed legal medications that might affect the safe performance of their duties are required to notify their supervisors prior to performing any hazardous or dangerous tasks.

18.2 Reporting to Work or Working While Impaired: Employees may not report to work and may not continue to work while impaired by any restricted substance identified in this policy.

18.3 Reporting Violations: The services provided by certain employees are performed, at times, under hazardous and dangerous conditions. Thus, employees are encouraged to come forward and report any violation of this policy to management. This information may be instrumental in the prevention of serious accidents and injuries on the job.

**Section 19. Medical Marijuana:**

General Statement:

It is the policy of the City that an employee or applicant for employment who posses a valid state issued Medical Marijuana license will not be discriminated against for possessing the license. In addition, an employee who does not occupy a position classified as "safety sensitive" will not be subject to discipline solely for testing positive for marijuana that is at or below the cutoff concentration level established by the United States Department of Transportation or Oklahoma law regarding being under the influence which ever is lower.

Safety Sensitive Positions:

Employees or applicants occupying or applying for safety sensitive positions will be subject to a "zero tolerance" standard in accordance with applicable Oklahoma law and the City's drug and alcohol testing policies. For purposes of this policy, "zero tolerance" means that a verified positive

drug test may subject the employee to disciplinary action or an applicant having his/her application rejected regardless of the possession of a medical marijuana license.

An employee may be subject to discipline in the following circumstances:

19.1 Use or possession of marijuana at work or during working hours.

19.2 Upon a showing that the City would lose or fail to obtain federal funding.

19.3 The employee does not posses a valid medical marijuana licence.

19.4 The employee is required, as part of his/her job duties to possess a federal license under the Federal Motor Carrier Safety Administration, the Federal Aviation Administration, the Federal Railroad Administration, the Federal Transit Administration, the National Highway Traffic Safety Administration or the Pipeline and Hazardous Materials Safety Administration.

19.5 The employee is employed in a safety sensitive position.

As applied to this policy, *safety sensitive positions* include, but are not limited to, positions having duties that include, but are not limited to:

1. Handling, packaging, processing, storage, disposal or transportation of hazardous materials;
2. Operation of a motor vehicle, other vehicle, equipment, machinery or power tools;
3. Repairing, maintaining, or monitoring the performance or operation of equipment, machinery, or manufacturing processes, the malfunction or disruption of which could result in injury or damage to property;
4. Performing firefighting duties;
5. Operation, maintenance or oversight of critical services and infrastructure, including, but not limited to, electric, gas, water, wastewater, streets, drainage, utilities, power generation or power distribution systems;
6. Extraction, compression, processing, manufacturing, handling, packaging, storage, disposal, treatment., or transportation or potentially volatile, flammable, combustible, hazardous or highly regulated materials, chemicals or components;
7. Dispensing of pharmaceuticals or medications;
8. Carrying a firearm.
9. Direct patient care or direct child care

The City may designate additional positions as "safety sensitive" where the position includes duties comparable to those identified above and where impairment could create a risk of injury, property damage, public safety concerns or disruption of essential governmental operations/services.

Employees occupying safety-sensitive positions may be subject to post offer/pre-employment testing, random testing, reasonable suspicion testing, post accident testing, return to duty testing and any

other testing authorized by the Oklahoma Standards for Workplace Drug and Alcohol Testing Act or any applicable federal statute.

A positive test for marijuana or a violation of the City's written drug and alcohol testing policies by an employee holding a safety sensitive position will result in disciplinary action up through possible termination of employment or the withdrawal of any conditional offer of employment made to any applicant who tests position.

# Reasonable Suspicion Testing Checklist – Witness #1

Employee Name: _____ Employee ID/SSN: _____

Date of Observation:_____ Time of Observation: _____am/pm

**Observed Indicators of Prohibited Drug Use/Alcohol Misuse:**

This checklist and consent form is used to determine and document reasonable suspicion of a potential violation of the Drug- Free Workplace policy. In such instances, both designated staff members observing the behavior must complete a checklist. It must be completed prior to testing and must be used to notify the individual that they are being asked to submit to drug and alcohol testing if indicators in at least two categories are checked. *Check all indicators observed:*

**WALKING**
- ☐ Holding on
- ☐ Stumbling
- ☐ Unable to walk
- ☐ Unsteady
- ☐ Staggering
- ☐ Swaying
- ☐ Falling
- ☐ Other

**FACE**
- ☐ Red/flushed
- ☐ Pale
- ☐ Sweaty
- ☐ Appears normal
- ☐ Slobbering
- ☐ Grinding teeth
- ☐ Dry mouth
- ☐ Runny nose
- ☐ Other

**SPEECH**
- ☐ Whispering
- ☐ Slurred
- ☐ Shouting
- ☐ Incoherent
- ☐ Silent
- ☐ Rambling
- ☐ Slow
- ☐ Other

**BREATH/ODOR**
- ☐ No alcohol odor
- ☐ Faint alcohol odor
- ☐ Strong alcohol odor
- ☐ Pungent tobacco odor
- ☐ Chemical odor
- ☐ Marijuana odor
- ☐ Breath spray/mouthwash
- ☐ None Gum
- ☐ Mints Candy
- ☐ Other

**STANDING**
- ☐ Swaying
- ☐ Feet wide apart
- ☐ Rigid
- ☐ Staggering
- ☐ Sagging at knees
- ☐ Other

**EYES**
- ☐ Watery
- ☐ Bloodshot
- ☐ Glassy
- ☐ Dilated
- ☐ Closed
- ☐ Droopy eye lids
- ☐ Appear normal

**MOVEMENTS**
- ☐ Fumbling
- ☐ Jerky
- ☐ Nervous
- ☐ Slow
- ☐ Hyperactive
- ☐ Other

**APPEARANCE**
- ☐ Messy
- ☐ Dirty/stained clothing
- ☐ Burns on person/clothing
- ☐ Ripped/torn clothing
- ☐ Partially dressed
- ☐ Puncture marks/needle tracks
- ☐ Appears normal

**DEMEANOR**
- ☐ Cooperative
- ☐ Talkative
- ☐ Sarcastic
- ☐ Anxious
- ☐ Disoriented
- ☐ Sleepy
- ☐ Silent
- ☐ Belligerent
- ☐ Excited
- ☐ Inattentive
- ☐ Drowsy
- ☐ Polite
- ☐ Tearful/crying
- ☐ Mood changes
- ☐ Paranoid
- ☐ Calm
- ☐ Resisting communication
- ☐ Other

**Written Summary** - *Summarize the facts and circumstances surrounding the incident. Attach additional sheets as needed.*

_____

_____

_____

_____

_____

**Additional facts:**

_____Presence of alcohol and/or drugs in individual's possession or vicinity
_____On the job misconduct by individual, (specify)
_____Individual admission concerning alcohol use and/or drug use or possession
_____Individual declined to comment, or
_____Other witnesses, list names and contact information below

_____

**Minors:**

Is individual at least 18 years of age? YES NO (circle) If "no", name of parent/guardian contacted:

_____

**Testing Information:**

Collection Site Location:_____Time Arrived: _____am/pm

1. Was the **alcohol** test performed within 2 hours of the time of the observations that led to the reasonable suspicion determination?

_____YES
_____NO, **Explain:** _____

_____

2. Was the **alcohol** test performed within 8 hours of the time of the observations that led to the reasonable suspicion determination?

_____YES
_____NO, **Explain:** _____

_____

**If the alcohol test is not conducted within 8 hours cease all efforts to administer the test.**

*The above documentation of the observed physical, behavioral, and performance indicators of the named employee was provided by:*

Supervisor Name:_____ Phone No: _____

Signature: _____ Date: _____

_____

# Reasonable Suspicion Testing Checklist – Witness #2

Employee Name: _____ Employee ID/SSN: _____

Date of Observation: _____ Time of Observation: _____am/pm

**Observed Indicators of Prohibited Drug Use/Alcohol Misuse:**

This checklist and consent form is used to determine and document reasonable suspicion of a potential violation of the Drug- Free Workplace policy. In such instances, both designated staff members observing the behavior must complete a checklist. It must be completed prior to testing and must be used to notify the individual that they are being asked to submit to drug and alcohol testing if indicators in at least two categories are checked. *Check all indicators observed:*

**WALKING**
- ☐ Holding on
- ☐ Stumbling
- ☐ Unable to walk
- ☐ Unsteady
- ☐ Staggering
- ☐ Swaying
- ☐ Falling
- ☐ Other

**FACE**
- ☐ Red/flushed
- ☐ Pale
- ☐ Sweaty
- ☐ Appears normal
- ☐ Slobbering
- ☐ Grinding teeth
- ☐ Dry mouth
- ☐ Runny nose
- ☐ Other

**SPEECH**
- ☐ Whispering
- ☐ Slurred
- ☐ Shouting
- ☐ Incoherent
- ☐ Silent
- ☐ Rambling
- ☐ Slow
- ☐ Other

**BREATH/ODOR**
- ☐ No alcohol odor
- ☐ Faint alcohol odor
- ☐ Strong alcohol odor
- ☐ Pungent tobacco odor
- ☐ Chemical odor
- ☐ Marijuana odor
- ☐ Breath spray/mouthwash
- ☐ None Gum
- ☐ Mints Candy
- ☐ Other

**STANDING**
- ☐ Swaying
- ☐ Feet wide apart
- ☐ Rigid
- ☐ Staggering
- ☐ Sagging at knees
- ☐ Other

**EYES**
- ☐ Watery
- ☐ Bloodshot
- ☐ Glassy
- ☐ Dilated
- ☐ Closed
- ☐ Droopy eye lids
- ☐ Appear normal

**MOVEMENTS**
- ☐ Fumbling
- ☐ Jerky
- ☐ Nervous
- ☐ Slow
- ☐ Hyperactive
- ☐ Other

**APPEARANCE**
- ☐ Messy
- ☐ Dirty/stained clothing
- ☐ Burns on person/clothing
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**DEMEANOR**
- ☐ Cooperative
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- ☐ Sleepy
- ☐ Silent
- ☐ Belligerent
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- ☐ Inattentive
- ☐ Drowsy
- ☐ Polite
- ☐ Tearful/crying
- ☐ Mood changes
- ☐ Paranoid
- ☐ Calm
- ☐ Resisting communication
- ☐ Other

**Written Summary** - *Summarize the facts and circumstances surrounding the incident. Attach additional sheets as needed.*

_____

_____

_____

_____

_____

**Additional facts:**

_____Presence of alcohol and/or drugs in individual's possession or vicinity
_____On the job misconduct by individual, (specify)
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_____Individual declined to comment, or
_____Other witnesses, list names and contact information below

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**Minors:**

Is individual at least 18 years of age? YES NO (circle) If "no", name of parent/guardian contacted:

_____

**Testing Information:**

Collection Site Location:_____Time Arrived: _____am/pm

3. Was the **alcohol** test performed within **2** hours of the time of the observations that led to the reasonable suspicion determination?

_____YES
_____NO, **Explain:** _____

_____

4. Was the **alcohol** test performed within **8** hours of the time of the observations that led to the reasonable suspicion determination?

_____YES
_____NO, **Explain:** _____

_____

**If the alcohol test is not conducted within <u>8 hours</u> cease all efforts to administer the test.**

*The above documentation of the observed physical, behavioral, and performance indicators of the named employee was provided by:*

Supervisor Name:_____ Phone No: _____

Signature: _____ Date: _____

**RESOLUTION NO. 1003A**

**A RESOLUTION OF THE CLINTON CITY COUNCIL UPDATING APPENDIX "C" OF THE "EMPLOYEE HANDBOOK OF PERSONNEL POLICIES OF CITY OF CLINTON" REGARDING ALCOHOL AND CONTROL SUBSTANCE TESTING POLICY AND PROCEDURES**

**WHEREAS,** the "Oklahoma Standards for Workplace and Alcohol Testing Act", OK Statutes, Title 40, Section 551 *et. seq.* authorizes employers to conduct drug and alcohol testing to prevent and eliminate drug, alcohol and substance abuse in the workplace subject to certain specified restrictions, and

**WHEREAS,** in consultation with an experienced labor attorney, the City of Clinton previously provided a policy which was adopted by the City Council as Appendix "C" of the "EMPLOYEE HANDBOOK OF PERSONNEL POLICIES of CITY of CLINTON" and has been administered since that adoption; and

**WHEREAS,** once again, in consultation with an experienced labor attorney, the City of Clinton has recently drafted updated wording for Appendix "C" to comply with all present restrictions for this policy for Council consideration; and

**WHEREAS,** the updated Appendix "C" of the "EMPLOYEE HANDBOOK of PERSONNEL POLICIES of CITY of CLINTON" is attached to this Resolution as Attachment "C".

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Clinton, to update Appendix "C" to the "Employee Handbook of Personnel Policies of City of Clinton" Regarding Alcohol and Control Substance Testing Policy and Procedures

**PASSED** by the City Council, this 11th day of September 2026.

_____
David D. Berrong, Mayor

ATTEST:

_____
Amy E. Jones, City Clerk

## APPENDIX "C"

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Nothing in this policy is to be construed as requiring the City to permit or accommodate the possession, consumption, use, transfer, display, transportation, sale or being under the influence/impairment of marijuana while at work, while on city property, while operating city equipment or vehicles, or while performing official city duties nor limit the ability of the City to prohibit employees from performing duties for the City while impaired by marijuana.

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believe that an employee may be under the influence of drugs or alcohol, including, but not limited to, the following circumstances:

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5.2 Observation of conduct on the part of the employee that suggests that the employee is impaired or is under the influence of drugs or alcohol;

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5.6 Excessive or unexplained absenteeism or tardiness.

The supervisor will verbally inform the employee of the reason for the test. Additionally, a written record of the situation leading to the drug or alcohol test will be created and signed by the supervisor(s) within 24 hours of the event. A copy of the report will be forwarded to the City Manager. A checklist form for determining whether reasonable suspicion exist to justify a test is attached as Exhibit "1" to this policy.

The employee involved must stop work immediately and will be transported as soon as possible to the designated testing facility by a management/supervisory employee. The employee will not be allowed back to work until the results of the test are known.

**Section 6. Post Accident Testing:** Post-Accident drug and/or alcohol testing may be conducted on an employee where there has been damage to City property or equipment while the employee was at work or the employee or another person has sustained an injury while at work. The post accident test will be administered while the employee is still on duty or as close to as possible. No employee required to take a post accident alcohol or drug test may use any alcohol or drugs, of any kind, following the accident until he/she undergoes the post accident testing.

**Section 7. Random Testing:** The City may, at various times, randomly select members of the following employment groups, at its discretion, for unannounced random testing for drugs or alcohol:

a. paid police officers and paid firefighters;

b. employees who have drug interdiction responsibilities ;

c. employees authorized to carry a firearm;

d. employees engaged in activities which directly affect the safety of the public including, but not limited to, emergency medical personnel; dispatchers; and water and waste water treatment personnel;

e. employees whose work involves direct contract with inmates in the custody of the Department of Correction or who work in direct contact with juvenile delinquents or children in need of supervision in the custody of the Department of Human Services; or

f. employees for whom testing is mandated or authorized by the Omnibus Transportation Employee Testing Act, as amended from time to time, and the U.S. Department of Transportation regulations applicable thereto including employees who must have a CDL to perform the functions of their positions.

**Section 8. Periodic Scheduled Testing:** The City may require an employee in any of the employment groups identified in Section 7 above to undergo drug or alcohol testing as part of a routinely scheduled employee fitness for duty examination or in connection with the employee's return to duty from a leave of absence.

**Section 9. Post Rehabilitation Testing:** The City may require an employee to undergo drug and/or alcohol testing, without prior notice, for a period of up to two (2) years after the employee's return to work following a confirmed positive test result or following participation in a drug or alcohol dependency program. Post-rehabilitation testing will be conducted in addition to any other testing the employee is subject to under this policy.

**Section 10. Substance for Which Tests May Be Given**: The City reserves the right to test for all drugs and for the presence of alcohol. The test for drugs may include, but not be limited to: amphetamines, cannabinoids, cocaine, phencyclidine (PCP), hallucinogens, methaqualone, opiates, barbiturates, benzodiazepines, synthetic narcotics, designer drugs, illegal steroid or a metabolite of any of the above.

Threshold reporting levels will be those established and maintained by the Federal Department of Transportation and as utilized by the National Institute for Drug Abuse (NIDA). Any positive levels below those established reporting levels will not be reported to the City's Review Officer by the testing laboratory.

**Section 11. Methods and Documentation:** Collection, storage, transportation, testing facilities and testing procedures will be conducted in accordance with rules established by the State Board of Health. Samples may be collected on the premises of the City at its election. Body component samples will be collected with due regard to the privacy of the individual being tested. In no case may any City employee directly observe collection of a urine sample. A written record of the chain of custody of the sample will be maintained until the sample is no longer required.

All sample testing will conform to scientifically accepted analytical methods and procedures. Testing will include confirmation testing of any positive test results by gas chromatography, gas

chromatography-mass spectroscopy, or an equivalent scientifically accepted method of equal or greater accuracy as approved by the State Board of Health at the cut off levels as determined by the State Board of Health. In the case of the use of Breathalyzer testing method, no discipline may be imposed unless there is a confirmation test performed on a second sample that confirms the prior results.

An applicant or employee will be given the opportunity to provide notification of any information which he/she considers relevant to the test, including currently or recently used drugs or other relevant information. In the event that an employee wishes to challenge the results of the City's test, he/she may do so as provided in this policy. The employee must have had the sample collected within one hour of the City's sample and such retest must be in accordance with the standards set forth by the State Board of Health and in this policy.

**Section 12. Costs:** The City is responsible for all costs associated with drug or alcohol testing. However, if an employee or applicant requests a confirmation test of a sample within twenty-four (24) hours of receiving notice of a positive test result in order to challenge the results of the positive test, the employee or applicant is responsible for the cost of the confirmation test unless the confirmation test reverses the findings of the challenged positive test. In such case, the City will reimburse the employee for the cost of the confirmation test.

**Section 13. Refusing to Undergo Testing or Tampering with Sample:** Employees refusing to undergo testing according to the terms of this policy will be subject to disciplinary action up to and including termination. Adulteration of a specimen or of a drug or alcohol test will be considered as a refusal to undergo a test and will result in disciplinary action up through and including termination of employment.

**Section 14. Review Officer:** The City will contract with a Review Officer who will receive confirmed positive test results from the testing facility and evaluate those results in conjunction with the subject employee and/or applicant. The Review Officer will be qualified by the Board of Health to receive, interpret and evaluate the test results. Upon receiving a confirmed positive test result, the Review Officer will contact the applicant or employee prior to notification of City officials. The applicant or employee will be given the opportunity to explain the test results.

**Section 15. Confidentiality:** The City will treat all tests and all information related to such test, as confidential materials. All records relating to drug testing will be kept separate from personnel records. The records are the property of the City but will be made available to the affected applicant or employee for inspection and copying upon request and will also be available for review by the City Review Officer. Except as set forth below, the records will not be released to any person other than the applicant or the employee without that person's express written permission. However, the City may release the records:

a. to comply with a valid judicial or administrative order;

b. as admissible evidence in a case or proceeding before a court of record or administrative agency if the employee or the City is named as a party in the

case or proceeding; or

c. to employees or agents of the City who need access to the records in connection with the administration of this Policy and the Oklahoma Standards for Workplace Drug and Alcohol Testing Act.

**Section 16. Disciplinary Action:** The City may elect to take disciplinary action, up to and including termination of employment, against an employee who: 1) tests positive for drugs and/or alcohol; 2) refused to test under this policy; or 3) adulterates a specimen for a drug or alcohol test.

16.1 Positive Test Results: The City will evaluate the employment history of any employee who tests positive for drugs and/or alcohol. The appropriate course of action will be determined based on the employee's total work record. Where deemed appropriate by management, an employee may be offered the opportunity to enter into a rehabilitation program. Continued employment will be contingent upon the successful completion of a rehabilitation program and an agreement to undergo periodic drug and/or alcohol post-rehabilitation testing for up to two (2) years. However, the City reserves the right to initiate disciplinary action, up to an including termination of employment, for the first positive test result. Any decision regarding disciplinary action under this policy by management will be final and binding.

16.2 Employees who have tested positive, and who have been offered the opportunity to participate in a rehabilitation program in lieu of termination of employment, will not be allowed to return to work until they can provide a verified negative "return to work" test from a City approved facility. An employee may be allowed a maximum of 12 weeks to provide a verified negative "return to work" drug or alcohol test. If a negative test is not provided within 12 weeks, the employee will be terminated from employment. Until a negative "return to work" test is supplied, the employee will be on leave without pay. However, an employee may request permission to use accrued sick leave and vacation leave. An employee may request a "return to work" test no sooner than two weeks from a positive test result, and subsequently every other week thereafter, until a negative "return to work" test is obtained. Employees refusing to seek help or submit to testing in accordance with this policy will be subject to disciplinary action.

16.3 In the event the City does not terminate the employment of an employee who has a positive test result, the employee who enters a rehabilitation program after the positive test results will be permitted to do so only once. Any future recurrence for abuse with the same or any other substance will result in termination of employment.

16.4 An employee who is discharged from employment on the basis of refusal to undergo drug or alcohol testing or based on a positive drug or alcohol test will be considered as having been discharged for misconduct for the purpose of unemployment compensation and the City will protest any application for unemployment benefits.

**Section 17. Prohibitions:** No employee may report for duty within four hours after using alcohol or remain on duty while having an alcohol concentration of 0.04 or greater, and no

supervisor will permit any employee to perform any work duties if the supervisor is aware the employee has an alcohol concentration of 0.04 or greater. No employee will be on duty or operate a City vehicle/equipment or perform job duties while in possession of alcohol nor use alcohol during duty time. Further, no employee may report for duty, drive a City-owned vehicle, operate City equipment or remain on duty when the employee has used any controlled substance, except when the use is pursuant to the instructions of a physician and where the physician has advised an employee the substance will not adversely affect an employee's ability to drive a vehicle or operate equipment. No supervisor having knowledge that an employee has used a controlled substance may permit an employee to be on duty or drive/operate any City vehicle or equipment.

**Section 18. Responsibilities of Individuals:** In order to comply with the provisions of this policy, each employee assumes the following responsibilities:

18.1 Working Under the Influence of Performance Impairing Medication: Employees who have been prescribed legal medications that might affect the safe performance of their duties are required to notify their supervisors prior to performing any hazardous or dangerous tasks.

18.2 Reporting to Work or Working While Impaired: Employees may not report to work and may not continue to work while impaired by any restricted substance identified in this policy.

18.3 Reporting Violations: The services provided by certain employees are performed, at times, under hazardous and dangerous conditions. Thus, employees are encouraged to come forward and report any violation of this policy to management. This information may be instrumental in the prevention of serious accidents and injuries on the job.

**Section 19. Medical Marijuana:**

General Statement:

It is the policy of the City that an employee or applicant for employment who posses a valid state issued Medical Marijuana license will not be discriminated against for possessing the license. In addition, an employee who does not occupy a position classified as "safety sensitive" will not be subject to discipline solely for testing positive for marijuana that is at or below the cutoff concentration level established by the United States Department of Transportation or Oklahoma law regarding being under the influence which ever is lower.

Safety Sensitive Positions:

Employees or applicants occupying or applying for safety sensitive positions will be subject to a "zero tolerance" standard in accordance with applicable Oklahoma law and the City's drug and alcohol testing policies. For purposes of this policy, "zero tolerance" means that a verified positive drug test may subject the employee to disciplinary action or an applicant having his/her application rejected regardless of the possession of a medical marijuana license.

An employee may be subject to discipline in the following circumstances:

19.1 Use or possession of marijuana at work or during working hours.

19.2 Upon a showing that the City would lose or fail to obtain federal funding.

19.3 The employee does not posses a valid medical marijuana licence.

19.4 The employee is required, as part of his/her job duties to possess a federal license under the Federal Motor Carrier Safety Administration, the Federal Aviation Administration, the Federal Railroad Administration, the Federal Transit Administration, the National Highway Traffic Safety Administration or the Pipeline and Hazardous Materials Safety Administration.

19.5 The employee is employed in a safety sensitive position.

As applied to this policy, *safety sensitive positions* include, but are not limited to, positions having duties that include, but are not limited to:

1. Handling, packaging, processing, storage, disposal or transportation of hazardous materials;
2. Operation of a motor vehicle, other vehicle, equipment, machinery or power tools;
3. Repairing, maintaining, or monitoring the performance or operation of equipment, machinery, or manufacturing processes, the malfunction or disruption of which could result in injury or damage to property;
4. Performing firefighting duties;
5. Operation, maintenance or oversight of critical services and infrastructure, including, but not limited to, electric, gas, water, wastewater, streets, drainage, utilities, power generation or power distribution systems;
6. Extraction, compression, processing, manufacturing, handling, packaging, storage, disposal, treatment., or transportation or potentially volatile, flammable, combustible, hazardous or highly regulated materials, chemicals or components;
7. Dispensing of pharmaceuticals or medications;
8. Carrying a firearm.
9. Direct patient care or direct child care

The City may designate additional positions as "safety sensitive" where the position includes duties comparable to those identified above and where impairment could create a risk of injury, property damage, public safety concerns or disruption of essential governmental operations/services.

Employees occupying safety-sensitive positions may be subject to post offer/pre-employment testing, random testing, reasonable suspicion testing, post accident testing, return to duty testing and any other testing authorized by the Oklahoma Standards for Workplace Drug and Alcohol Testing Act or any applicable federal statute.

A positive test for marijuana or a violation of the City's written drug and alcohol testing policies by an employee holding a safety sensitive position will result in disciplinary action up through possible termination of employment or the withdrawal of any conditional offer of employment made to any applicant who tests position.

# Reasonable Suspicion Testing Checklist – Witness #1

Employee Name: _____ Employee ID/SSN: _____

Date of Observation:_____ Time of Observation: _____am/pm

**Observed Indicators of Prohibited Drug Use/Alcohol Misuse:**

This checklist and consent form is used to determine and document reasonable suspicion of a potential violation of the Drug- Free Workplace policy. In such instances, both designated staff members observing the behavior must complete a checklist. It must be completed prior to testing and must be used to notify the individual that they are being asked to submit to drug and alcohol testing if indicators in at least two categories are checked. *Check all indicators observed:*

**WALKING**
- ☐ Holding on
- ☐ Stumbling
- ☐ Unable to walk
- ☐ Unsteady
- ☐ Staggering
- ☐ Swaying
- ☐ Falling
- ☐ Other

**FACE**
- ☐ Red/flushed
- ☐ Pale
- ☐ Sweaty
- ☐ Appears normal
- ☐ Slobbering
- ☐ Grinding teeth
- ☐ Dry mouth
- ☐ Runny nose
- ☐ Other

**SPEECH**
- ☐ Whispering
- ☐ Slurred
- ☐ Shouting
- ☐ Incoherent
- ☐ Silent
- ☐ Rambling
- ☐ Slow
- ☐ Other

**BREATH/ODOR**
- ☐ No alcohol odor
- ☐ Faint alcohol odor
- ☐ Strong alcohol odor
- ☐ Pungent tobacco odor
- ☐ Chemical odor
- ☐ Marijuana odor
- ☐ Breath spray/mouthwash
- ☐ None Gum
- ☐ Mints Candy
- ☐ Other

**STANDING**
- ☐ Swaying
- ☐ Feet wide apart
- ☐ Rigid
- ☐ Staggering
- ☐ Sagging at knees
- ☐ Other

**EYES**
- ☐ Watery
- ☐ Bloodshot
- ☐ Glassy
- ☐ Dilated
- ☐ Closed
- ☐ Droopy eye lids
- ☐ Appear normal

**MOVEMENTS**
- ☐ Fumbling
- ☐ Jerky
- ☐ Nervous
- ☐ Slow
- ☐ Hyperactive
- ☐ Other

**APPEARANCE**
- ☐ Messy
- ☐ Dirty/stained clothing
- ☐ Burns on person/clothing
- ☐ Ripped/torn clothing
- ☐ Partially dressed
- ☐ Puncture marks/needle tracks
- ☐ Appears normal

**DEMEANOR**
- ☐ Cooperative
- ☐ Talkative
- ☐ Sarcastic
- ☐ Anxious
- ☐ Disoriented
- ☐ Sleepy
- ☐ Silent
- ☐ Belligerent
- ☐ Excited
- ☐ Inattentive
- ☐ Drowsy
- ☐ Polite
- ☐ Tearful/crying
- ☐ Mood changes
- ☐ Paranoid
- ☐ Calm
- ☐ Resisting communication
- ☐ Other

**Written Summary** - *Summarize the facts and circumstances surrounding the incident. Attach additional sheets as needed.*

_____

_____

_____

_____

_____

**Additional facts:**

_____Presence of alcohol and/or drugs in individual's possession or vicinity
_____On the job misconduct by individual, (specify)
_____Individual admission concerning alcohol use and/or drug use or possession
_____Individual declined to comment, or
_____Other witnesses, list names and contact information below

_____

**Minors:**

Is individual at least 18 years of age? YES NO (circle) If "no", name of parent/guardian contacted:

_____

**Testing Information:**

Collection Site Location:_____Time Arrived: _____am/pm

1. Was the **alcohol** test performed within **2** hours of the time of the observations that led to the reasonable suspicion determination?

_____YES
_____NO, **Explain:** _____

_____

2. Was the **alcohol** test performed within 8 hours of the time of the observations that led to the reasonable suspicion determination?

_____YES
_____NO, **Explain:** _____

_____

**If the alcohol test is not conducted within 8 hours cease all efforts to administer the test.**

*The above documentation of the observed physical, behavioral, and performance indicators of the named employee was provided by:*

Supervisor Name:_____ Phone No: _____

Signature: _____ Date: _____

_____

# Reasonable Suspicion Testing Checklist – Witness #2

Employee Name: _____ Employee ID/SSN: _____

Date of Observation: _____ Time of Observation: _____ am/pm

**Observed Indicators of Prohibited Drug Use/Alcohol Misuse:**

This checklist and consent form is used to determine and document reasonable suspicion of a potential violation of the Drug- Free Workplace policy. In such instances, both designated staff members observing the behavior must complete a checklist. It must be completed prior to testing and must be used to notify the individual that they are being asked to submit to drug and alcohol testing if indicators in at least two categories are checked. *Check all indicators observed:*

**WALKING**
- ☐ Holding on
- ☐ Stumbling
- ☐ Unable to walk
- ☐ Unsteady
- ☐ Staggering
- ☐ Swaying
- ☐ Falling
- ☐ Other

**FACE**
- ☐ Red/flushed
- ☐ Pale
- ☐ Sweaty
- ☐ Appears normal
- ☐ Slobbering
- ☐ Grinding teeth
- ☐ Dry mouth
- ☐ Runny nose
- ☐ Other

**SPEECH**
- ☐ Whispering
- ☐ Slurred
- ☐ Shouting
- ☐ Incoherent
- ☐ Silent
- ☐ Rambling
- ☐ Slow
- ☐ Other

**BREATH/ODOR**
- ☐ No alcohol odor
- ☐ Faint alcohol odor
- ☐ Strong alcohol odor
- ☐ Pungent tobacco odor
- ☐ Chemical odor
- ☐ Marijuana odor
- ☐ Breath spray/mouthwash
- ☐ None Gum
- ☐ Mints Candy
- ☐ Other

**STANDING**
- ☐ Swaying
- ☐ Feet wide apart
- ☐ Rigid
- ☐ Staggering
- ☐ Sagging at knees
- ☐ Other

**EYES**
- ☐ Watery
- ☐ Bloodshot
- ☐ Glassy
- ☐ Dilated
- ☐ Closed
- ☐ Droopy eye lids
- ☐ Appear normal

**MOVEMENTS**
- ☐ Fumbling
- ☐ Jerky
- ☐ Nervous
- ☐ Slow
- ☐ Hyperactive
- ☐ Other

**APPEARANCE**
- ☐ Messy
- ☐ Dirty/stained clothing
- ☐ Burns on person/clothing
- ☐ Ripped/torn clothing
- ☐ Partially dressed
- ☐ Puncture marks/needle tracks
- ☐ Appears normal

**DEMEANOR**
- ☐ Cooperative
- ☐ Talkative
- ☐ Sarcastic
- ☐ Anxious
- ☐ Disoriented
- ☐ Sleepy
- ☐ Silent
- ☐ Belligerent
- ☐ Excited
- ☐ Inattentive
- ☐ Drowsy
- ☐ Polite
- ☐ Tearful/crying
- ☐ Mood changes
- ☐ Paranoid
- ☐ Calm
- ☐ Resisting communication
- ☐ Other

**Written Summary** - *Summarize the facts and circumstances surrounding the incident. Attach additional sheets as needed.*

_____

_____

_____

_____

_____

**Additional facts:**

_____Presence of alcohol and/or drugs in individual's possession or vicinity
_____On the job misconduct by individual, (specify)
_____Individual admission concerning alcohol use and/or drug use or possession
_____Individual declined to comment, or
_____Other witnesses, list names and contact information below

_____

**Minors:**

Is individual at least 18 years of age? YES NO (circle) If "no", name of parent/guardian contacted:

_____

**Testing Information:**

Collection Site Location:_____Time Arrived: _____am/pm

3. Was the **alcohol** test performed within 2 hours of the time of the observations that led to the reasonable suspicion determination?

_____YES
_____NO, **Explain:** _____

_____

4. Was the **alcohol** test performed within 8 hours of the time of the observations that led to the reasonable suspicion determination?

_____YES
_____NO, **Explain:** _____

_____

**If the alcohol test is not conducted within 8 hours cease all efforts to administer the test.**

*The above documentation of the observed physical, behavioral, and performance indicators of the named employee was provided by:*

Supervisor Name:_____ Phone No: _____

Signature: _____ Date: _____