

ADMINISTRATIVE ORDER NO. 22

Pursuant to Administrative Order, I hereby promulgate the attached City of Billings Substance Abuse Policy. The provisions under paragraph 5.0, Substance Testing, shall become effective on 1 July 1990. All other provisions of this Policy are effective immediately. Whenever necessary or as required by this Policy, the Personnel Director is authorized to amend Exhibit "A" and "C" of the Substance Abuse Policy. Any amendment to Exhibit "A" and "C" of this policy is effective upon my concurrence and the amendment to the exhibits can be accomplished without repealing this Administrative Order and publishing a new order.

DATED this 16th day of May, 1990.

CITY OF BILLINGS

By

Alan Tandy  
City Administrator

## CITY OF BILLINGS SUBSTANCE ABUSE POLICY

### **1.0 PURPOSE.**

The City of Billings is committed to providing and maintaining a safe, healthy, and productive working environment for all of its employees and the citizens of the community. Substance abuse increases the potential for accidents, absenteeism, substandard performance, and poor employee morale. Impaired judgment of City employees may have serious financial consequences for the City through increased safety risk, potential accident liabilities, increased Worker's Compensation liabilities, and potential faulty decision-making. Substance abuse undermines the City's mission to provide the community with an excellent quality of life through leadership, communication and delivery of service which are responsive to citizen's needs, cost effective, and oriented to the future. For these reasons, the City of Billings has implemented the following Substance Abuse Policy.

### **2.0 DEFINITIONS.**

1. Controlled Substance. Means a controlled substance in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. § 812), and as further defined by regulation at 21 C.F.R. 1300.11 through 1300.15.
2. Conviction. Means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of federal or state criminal drug statutes.
3. Duty. Means the status and time of a person who is assigned to work or time an employee is scheduled to report to work. Any time the employee is not fully and completely released from work.
4. Work Place. Means the site for the performance of any City work. Work site includes City vehicles and private vehicles while being used by employees in the performance of their duties.

**3.0 RESERVED.**

**4.0 POLICY PROVISIONS AND WORK RULES FOR A DRUG FREE WORK ENVIRONMENT.**

**4.1 PROHIBITIONS.**

All employees of the City of Billings are prohibited from the:

- (a) unauthorized use, consumption, distribution, or possession of controlled substances (illegal drugs) while on duty.
- (b) use, consumption, distribution or possession of alcoholic beverages while on duty.
- (c) unlawfully manufacturing, distributing, dispensing, possessing, or using a controlled substance (illegal drugs) at the work site, whether on duty or off duty.
- (d) use, distribution, dispensation, possession, manufacture, or sale of (illegal drugs) while off duty which adversely affects the employee's work performance, the safety of the employee or others at work, or the City's regard or reputation in the community. This includes reporting to duty while under the influence of illegal drugs.
- (e) use of alcohol off duty that adversely affects the employee's work performance, the safety of the employee or others at work, or the City's regard or reputation in the community. This includes reporting to duty while under the influence of alcohol.

**4.2 ADDITIONAL EMPLOYEE RESPONSIBILITIES.**

As a condition of continued employment, all employees must:

- (a) abide by the terms of this Policy.
- (b) notify the Personnel Director of any criminal drug statute conviction for a violation occurring in the work place no later than five (5) days after a conviction.
- (c) cooperate in City's investigation of substance use and abuse.

#### **4.3 ENFORCEMENT AND DISCIPLINE.**

Any employee violating this policy shall be subject to discipline up to and including discharge. Any employee who is disciplined under this policy will be referred to a drug/alcohol abuse assistance or rehabilitation program in accordance with the City's Employee Assistance Program (EAP). An employee discharged under this policy is not entitled to the benefits of the City's EAP.

#### **5.0 SUBSTANCE TESTING.**

##### **5.1 APPLICANTS.**

###### **5.1.1 APPLICATION AND CONDITION OF EMPLOYMENT.**

A selected applicant being considered for a City position listed in Exhibit A is required to submit to a drug test prior to applicant's appointment or hire. A negative drug test result and remaining drug-free are conditions of employment.

###### **5.1.2 NOTIFICATION OF TESTING.**

Newspaper announcements and applications for a position listed in Exhibit A will state that a selected applicant will be required to submit to a drug test prior to appointment or hire.

###### **5.1.3 CONSEQUENCES OF A CONFIRMED POSITIVE TEST RESULT.**

An applicant will be deemed ineligible for employment if applicant's initial positive result is confirmed and applicant has no satisfactory explanation. The applicant who is deemed ineligible for employment will be ineligible to apply to the City for a position listed in Exhibit A for one year.

###### **5.1.4 GENERAL.**

Annually, the Personnel Director will review the job positions delineated in Exhibit A to determine if the job position requires an employee to work in a hazardous work environment or if the job position's primary responsibility involves security, public safety or fiduciary responsibility. Whenever a job position's primary duties or responsibilities are changed, a similar review will be conducted of this job position.

## **5.2 EMPLOYEES.**

At the present time, the City is not conducting drug testing of current employees for illegal drugs. It is the City's policy to encourage current employees who are users to identify and detect individually their problems and to voluntarily enter rehabilitation through the City's Employee Assistance Program (EAP). This drug policy does not preclude the City from taking disciplinary action against employees for violation of this policy or preclude the testing of employees for alcohol by means other than blood or urine testing.

## **5.3 GENERAL TESTING GUIDELINES.**

### **5.3.1 DRUGS TO BE TESTED.**

When drug and alcohol screening is required under the provisions of this Policy, the urinalysis will be given to detect the presence of the following drug groups:

- Amphetamines
- Cocaine
- Marijuana
- Opiates
- Phencyclidine (PCP)

### **5.3.2 CONSENT.**

Before a drug test is administered, applicant is to sign a consent form, which is attached as Exhibit B. The execution of this consent form is in addition to any consent forms required by the laboratories.

### **5.3.3 REFUSAL TO CONSENT.**

Applicants who refuse to consent to a drug and alcohol test will be denied employment with the City.

### **5.3.4 CONFIRMATION OF TEST RESULTS AND RETESTS.**

Applicants' specimens which have yielded a positive initial test result (verified by reassay) will be confirmed by gas chromatography/mass spectrometry (GC/MS) tests. The applicant will be notified by the Medical Review Officer (MRO) of the positive result from GC/MS confirmatory test and the applicant may have the sample retested or obtain a confirmatory test by an independent laboratory selected by the applicant. The applicant must request a retest or independent test within 48 hours of the notification by the Medical Review Officer (MRO) of the positive result. The

cost of these tests shall be borne by the City.

#### **5.3.5 OPPORTUNITY TO RESPOND.**

Whenever an applicant's specimen result is confirmed positive and after applicant's independent test, if any, the applicant shall have the opportunity to explain or rebut the tests. Any explanation or rebuttal shall be submitted to the Personnel Director within five (5) days after notification of the positive confirmatory test result or result of the independent test, whichever is the latest. The Personnel Director, in coordination with the MRO, will review applicant's explanation and determine whether applicant presented a reasonable explanation or medical opinion indicating that the results were not caused by illegal drug use.

#### **5.3.6 CONFIDENTIALITY.**

All information from an applicant's drug and alcohol test is confidential and only those with the need to know are to be informed of test results, unless written authorization is obtained from the applicant. Any positive test results will be reported directly to the Personnel Department. If it is determined that the applicant is not eligible for employment as a result of a positive drug screen, the Personnel Department will notify the appropriate supervisor that the applicant's application has been reviewed and it has been determined that the applicant is not eligible for this position.

#### **5.3.7 RECORDS.**

A copy of all positive test results from the laboratory will be retained for five (5) years. A copy of all negative tests results from the laboratory will be retained for one (1) year.

#### **5.3.8 MEDICAL REVIEW OFFICER (MRO).**

The Medical Review Officer is a licensed physician designated by the Collection Facility as the MRO and who is qualified to act as a MRO under 49 C.F.R. §653.27. The Medical Review Officer shall receive the results of all drug tests from the Collection Laboratory; verify that the Laboratory report and assessment of all drug results are reasonable; determine whether an individual passes a drug test; and report each test to the Personnel Director. The MRO shall review each confirmed positive test result to determine whether there is a legitimate medical explanation for the result, including the use of legally prescribed medication. This review shall be performed by the Medical Review Officer prior to the transmission of results to the Personnel Director.

### **5.3.9 LABORATORY.**

Drug specimen collection and drug testing of urine shall be conducted at medical facilities and laboratories selected by the City. The collection facility and the drug testing laboratory selected by the City are listed in Exhibit "C." The City hereby adopts the written testing procedures of the collection and testing laboratories. The collection and testing laboratories shall make their written procedures available to any person subject to testing. The laboratories shall provide chain-of-custody documentation for each specimen tested. The laboratories shall comply with all federal regulations and guidelines, including but not limited to 49 C.F.R., part 40 and 40 C.F.R., part 653.

## **6.0 MANAGEMENT RESPONSIBILITIES & GUIDELINES.**

### **6.1 GENERAL**

When an employee has been convicted of a criminal drug statute for violation occurring in the workplace, the applicable department or division receiving a federal grant will notify the federal sponsoring agency of the conviction within ten days after receiving notice of the conviction.

EXHIBIT A

<u>DEPARTMENT</u>	<u>POSITION</u>
Administration	City Administrator Asst. City Administrator City Clerk  Director Personnel Payroll Clerk Risk Officer
Airport	Director of Aviation & Transit Asst. Director Aviation Airfield Maintenance Staff & CFR Staff (all positions) Airfield Maintenance Supv. Building Supv. Security Staff (all positions) CFR Supv. Plant Maintenance Mechanics Security Supv.
City Court	Clerk of Court Account Clerk II's - City Court Bailiff Clerk
Community Development	Director of Community Development Block Grant Manager
Finance	Director of Finance Asst. Director Finance Account Clerk II Accountants Controller Investment/Debt Coordinator  Mechanics & Auto Service Workers Motor Pool Foreman Motor Pool Manager Office Administrator - Motor Pool Purchasing Agent



Fire

Fire Chief  
Asst. Fire Chief  
Asst. Supervisor/Trainer  
Brigade Commanders  
Communications Supervisor  
Dispatch Staff  
Firefighters

Information  
Resources

Director Data Processing  
Computer Operators  
Programmers/Analysts I & II  
Software Support Specialist  
Operation Supervisor

Legal

City Attorney  
Asst. City Attorney  
Staff Attorney  
Prosecutor

Library

Director of Library  
Library Clerk I & II

Parking

Meter Collection/Repair Worker  
Parking Supervisor  
Meter Enforcement Officers  
Parking Attendants I & II  
Parking Attendant/Account Clerk

Parks, Recreation  
& Public Lands

Director of Parks, Recreation & Public Lands  
Cemetery Employees (all positions)  
Cemetery Superintendent  
Park Superintendent  
Parking Attendant/Account Clerk  
Park Employees (all positions)  
Park & Cemetery Foremen  
Recreation Superintendent  
Recreation Supv. except Sr. Center  
Seasonals - Lifeguards, Pool Managers  
Tree Trimmer

Police

Chief of Police  
Asst. Chief  
Command Staff  
Police Officers  
Police Clerical Staff  
Property Evidence Clerk

Police (cont.)

Animal Control Officers  
Animal Control Supervisor  
Kennel Keeper

Public Utilities

Director Public Utilities  
Asst. Director Public Utilities  
Engineers  
Foreman II's  
Inspector  
Systems Supr.

Account Clerks I  
Accountants

Mechanic I - Central Services Division  
Storekeeper

Asst. Water & Wastewater Plant Supt.  
Chemist I  
Chief Chemist  
Foreman II - Plants  
Laboratory Technician  
Plant Maintenance Mechanics  
Plant Operations Foreman  
Treatment Plant Operator I & II  
Water & Wastewater Plant Supt.  
Water & Wastewater Systems Supt.

Construction Inspector I  
Customer Service Admin.  
Customer Service Foreman  
Maintenance Worker III  
Permit Clerk

Building Caretakers - Treatment Plants

Public Works

Director Public Works  
Administrative Assistant  
Asst. Street Superintendent  
Electrician II  
Electrician - Street/Traffic  
Foreman II's - Street  
Street Equipment Operators & Maintenance Workers (all positions)  
Traffic Electrical Maintenance Supv.

Public Works (cont).

Chief Building Official  
City Engineer  
Engineers - Engineering  
Engineer II's - Streets & Engineering  
Inspectors - Building  
Operations Suptintendent  
Permit Clerks

Account Clerk II - Faustine  
Street Superintendent

Office Administration - Solid Waste  
Sanitation Equipment Operators & Drivers  
Sanitation Superintendent  
Assistant Sanitation Superintendent  
Sanitation (all positions except Solid Waste  
Inspector/Account Clerk & Clerk Typist II)

Transit

Transit Manager  
Transit Operators (all positions)  
Transit Operations Supv.  
Tranist Mechanics

Revision Date: \_\_\_\_\_

\_\_\_\_\_  
CARLENE DeVEAU, PERSONNEL DIRECTOR

\_\_\_\_\_  
ALAN TANDY, CITY ADMINISTRATOR

EXHIBIT "B"

CONSENT FORM FOR COLLECTION AND TESTING  
OF URINE SAMPLE

NOTIFICATION OF DRUG TESTING AND CONSEQUENCES  
OF A CONFIRMED POSITIVE TEST RESULT

I acknowledge that a negative drug test result and remaining drug-free are conditions of my employment and that I will be deemed ineligible for employment if my initial positive result is confirmed positive and I have no satisfactory explanation. I further acknowledge that if I am deemed ineligible, I will not be permitted to apply to the City of Billings for one year for a position listed in Exhibit "A" of the City's Substance Abuse Policy.

I realize that I may have my sample retested or obtain a confirmatory test by an independent laboratory selected by me and that to do so, I must contact the Medical Review Officer or the Personnel Department within 48 hours after I am notified that my sample tested positive. I further acknowledge that the testing procedures of the designated collection and testing laboratories are available to me upon my request and I have read and understand the City's Substance Abuse Policy.

CONSENT

I, \_\_\_\_\_, hereby consent to the collection and testing of my urine sample by the City of Billings, and its designated collection and testing laboratories to determine the presence of the following drugs: Marijuana, Cocaine, Amphetamines, Opiates and Phencyclidine (PCP).

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature\*

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Witness

\*Parent's signature, if applicant is under the age of 18.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Parent

EXHIBIT "C"

SPECIMEN COLLECTION FACILITY:

DEACONESS MEDICAL CENTER OF BILLINGS, INC.  
P. O. Box 37000  
Broadway at 9th Avenue North  
Billings, Montana 59107

SPECIMEN TESTING LABORATORY:

ROCHE BIO-MEDICAL LABORATORIES, INC.  
(A Subsidiary of Haufman-LaRoche, Inc.,  
Nutley, New Jersey 07110)  
101 Inverness Drive East  
P. O. Box 3779  
Englewood, Colorado 80112