

# **CITY OF AVALON**

## **Drug and Alcohol Testing Policy**

**Date: 1/19/2016**

**Policy No: P1**

As with any City policy, the CITY OF AVALON reserves the right to change, alter, amend, and interpret this policy with or without prior notification.

The purpose of this policy is to assure worker fitness for duty and to protect our employees and the public from risks posed by the use of alcohol or controlled substances. The City is committed to promoting a drug-free workplace to ensure that employees of the City, particularly those involved in safety-sensitive transportation activities avoid problems created by the use of alcohol or controlled substances.

The City of Avalon is legally required to enforce Federal DOT regulations and implement controlled substance and alcohol testing for employees who require a commercial driver's license. This includes testing requirements and consequences to employees in safety sensitive positions who have been found to use controlled substances and alcohol as outlined in this policy. The City is not, however, limited to testing only employees subject to Federal DOT regulations. Other employees of the City may also be tested pursuant to the terms of this policy.

The "use" of controlled substances means presence in an employee's body system while on duty. A positive test is sufficient to support a finding of "use." The "use" of alcohol means the presence in an employee's body system while on duty at an unacceptable level. This unacceptable level is defined in detail in this policy. As such, the purpose of this policy is to assure worker fitness for duty and to protect City employees, customers, and the public from the safety and health risks posed by the misuse of alcohol or controlled substances. This policy is also intended to comply with all applicable federal, state and local legislation and regulations governing workplace anti-drug use and alcohol misuse programs in the transportation industry; including, but not limited to:

- The United States Department of Transportation's Federal Motor Carrier Safety Administration (FMCSA) enacted 49 CFR Part 382 and the United States Coast Guard (USCG) enacted 46 CFR 4, 5 and 16 that mandate urine drug testing and breathalyzer alcohol testing for safety-sensitive positions and prevents performance of safety-sensitive functions when there is a positive test result.
- The United States Department of Transportation has also enacted 49 CFR Part 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs) that sets standards for the collection and testing of urine and breath specimens.
- In addition, the United States Department of Transportation has enacted 49 CFR Part 29, (The Drug-Free Workplace Act of 1988) which requires the establishment of drug free workplace policies and the reporting of certain drug-related offenses to the Department of Transportation. The policy incorporates those requirements of safety-sensitive employees and others when so noted.

Further the City is subject to the Drug-Free Workplace Act of 1990. The Drug-Free Workplace Act of 1990 requires that every person or organization awarded a contract or grant for procurement of any property or service from any State agency must certify that it will provide a drug-free workplace by doing certain specified acts. These acts include:

- Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the City's workplace and specifying actions which will be taken against employees for violations of the prohibition;
- Establishing a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace, the City's policy of maintaining a drug-free workplace, the availability of drug counseling, rehabilitation and employee assistance programs and the penalties imposed upon employee for drug abuse violations; and
- Requiring that each employee engaged in the performance of the contract or grant be given a copy of the aforementioned statement notifying employee of the drug free work place and that as a condition of employment on the contract or grant, the employee agree to abide by the terms of the statement.

This Policy shall apply to the projects and grants covered by the Drug Free Workplace Act of 1990. However, in addition to this general policy, all employees who work on those projects will be given a copy of a certification document to sign prior to the commencement of work on any such project. If outside contractors are used for the purposes of working on one of these projects, they will also be required to sign a drug free workplace certification.

The CITY OF AVALON recognizes that the use of alcohol and/or the use of controlled substances in the workplace is not conducive to safe working conditions. In order to promote a safe, healthy and productive work environment for all employees, it is the objective of the City to have a work force that is free from the influence of alcohol and controlled substances.

## **A. APPLICABILITY**

This policy applies to all employees, volunteers, and contractors when they are on City property or when performing any City related business. It further applies to off-site lunch periods and breaks when an employee is scheduled to return to work or is on-call. Visitors, vendors, volunteers and contracted employees are governed by this policy while on City premises, and they will not be permitted to conduct business if found to be in violation of this policy. Specific provisions of the policy are solely applicable to those employees who are working in safety-sensitive positions (e.g. random drug testing).

A listing of the CITY OF AVALON safety-sensitive employees will be maintained by the Human Resources Department. If you are unsure if your position qualifies as safety sensitive, please contact Human Resources. An employee is considered to be performing a job function while actually performing duties related to the job function, preparing to perform such duties, on-call or available for such duties as described in the job description, or immediately following the performance of such duties.

All employees of the CITY OF AVALON are subject to pre-employment, reasonable suspicion/cause, post-accident, return-to-duty and follow-up controlled substance and/or alcohol testing. Specific employees, such as Harbor and Avalon Municipal Employee Association Personnel, are also subject to random, periodic and post-serious marine incident (SMI) controlled substance and/or alcohol testing.

**PRE-EMPTION OF STATE AND LOCAL LAWS**

If any conflict occurs between State and local laws and any requirement of the above-mentioned Federal regulations, the Federal regulations prevail. However, Federal regulations do not preempt provisions of State criminal laws that impose sanctions for reckless conduct attributed to prohibited drug use or alcohol misuse, whether the provisions apply specifically to transportation employees, employers, or the public in general.

**VOLUNTARY ADMITTANCE:** A Rehabilitation Program is available to all employees who voluntarily request treatment. The City encourages its employees to participate in the City sponsored Employee Assistance Program for counseling and treatment for drug use and alcohol abuse. Employees who feel they have a problem with illegal drugs and/or alcohol may request voluntary admission to a rehabilitation program. Requests must be submitted to the designated employer representative (DER) or his/her designee for review. Program costs and subsequent controlled substance and/or alcohol testing costs will be paid by the employee. An employee failing to complete the program will be subject to termination from employment. An employee completing a rehabilitation program must agree to and sign a Last Chance Agreement, pass a return-to-duty controlled substance and/or alcohol test and be subject to unannounced follow-up testing for 36 months following return to duty. A positive result on the return-to-duty test or on the unannounced follow-up tests within a 36 month period will result in termination from employment.

*Employees may use accumulated sick leave, vacation and floating holidays, if any, to participate in the prescribed rehabilitation program; unless the employee has been suspended for cause from their position without pay, such as in the case of misconduct (such as in cases of violating this policy), gross negligence, or violations of codes of conduct.*

**B. PROHIBITED SUBSTANCES**

"Prohibited substances" addressed by this policy include the following:

**Controlled Substance:**

Amphetamines, barbiturates, benzodiazepines, cocaine, marijuana, methadone, methaqualone, opiates, phencyclidine (PCP), and propoxyphene for all employees, including safety-sensitive employees tested under City authority.

**Alcohol**

"Alcohol" is defined as: the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol, including methyl or isopropyl alcohol. The use of beverages or substances, including any medication, containing alcohol such that it is present in the body at a level in excess of that stated in Department of Transportation guidelines while actually performing, ready to perform, or immediately available to perform any City business is prohibited.

## **C. PROHIBITED CONDUCT**

### **Manufacture, Trafficking, Possession, and Use**

Any employee engaging in the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance or alcohol on City premises, in City vehicles or while conducting City business on or off the premises is absolutely prohibited. Violation may result in termination, and will result in removal from duty and referral to a Substance Abuse Professional (SAP). Law enforcement shall be notified, as appropriate, where criminal activity is suspected.

### **Impaired/Not Fit for Duty**

Any safety-sensitive employee who is reasonably suspected of being impaired, under the influence of a prohibited substance, or deemed unfit for duty shall be removed from safety-sensitive job duties and be required to undergo a reasonable suspicion controlled substance or alcohol test. Safety-sensitive employees failing to pass this reasonable suspicion controlled substance or alcohol test shall remain off duty and be referred to a Substance Abuse Professional (SAP). A controlled substance or alcohol test is considered positive (failed) if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in the Department of Transportation guidelines. Notably, all employees, regardless of their safety sensitive status are subject to reasonable suspicion drug testing.

If an employee's alcohol test result is between 0.02 and 0.039, the employee will be removed from safety-sensitive functions for twenty-four (24) hours. The employee will not work during the twenty-four (24) hour time period. After twenty-four (24) hours have passed, this employee may be allowed to return to work, so long as the employee complies with the requirements set forth below in the section titled "Treatment/Rehabilitation Program".

### **Alcohol Use**

No safety-sensitive employee may report for duty or remain on duty when his/her ability to perform assigned functions is adversely affected by alcohol or when his/her breath alcohol concentration is 0.02 or greater. No safety-sensitive employee shall use alcohol while on duty or while performing safety-sensitive functions. No safety-sensitive employee (crewmember) shall use alcohol within four (4) hours prior to reporting for duty nor during hours that he/she is on call. No safety-sensitive employee shall use alcohol within four (4) hours prior to reporting for duty nor during hours that he/she is on call. No safety-sensitive employee may use alcohol for eight (8) hours following an accident, or until the employee has undergone a post-accident test, whichever occurs first. Violation of this provision is prohibited and will subject the employee to removal from duty and referral to a Substance Abuse Professional (SAP). It is the City's policy to terminate any employee whose BAC is 0.04 or higher. It is also the City's policy that an employee may be terminated for cause after the first alcohol abuse offense pursuant to this policy. This zero tolerance policy does not excuse the City from evaluating any mitigating factors as required under the Americans with Disabilities Act or other laws and engaging in the Skelly process with the employee.

### **Compliance with Testing Requirements**

All employees, including safety sensitive employees are subject to pre-employment, post-accident, reasonable-suspicion, or follow-up drug or alcohol testing. Safety-sensitive employees are also subject to random drug testing. Any employee who refuses to submit to a request for testing, who provides false information in connection with a test, is untruthful in their statements when asked about their use of alcohol or drugs, or who attempts to falsify test results through tampering, contamination, adulteration, or substitution shall be removed from duty immediately and be referred to a Substance Abuse Professional (SAP). Refusal to submit to a test can include an inability to provide a urine specimen or breathe sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior or physical absence resulting in the inability to conduct the test.

### **Treatment/Rehabilitation Program**

An employee with a controlled substance and/or alcohol problem will be afforded an opportunity for treatment in accordance with the following provisions:

**Positive Controlled Substance and/or Alcohol Test:** Any employee who has a verified positive drug test result and/or alcohol concentration of 0.04 or above, or refuses to submit to a drug or alcohol test result will be immediately taken out of safety-sensitive duty, placed on administrative leave, referred to an SAP for evaluation, education or treatment and provided education materials and terminated. If an employee tests positive for drug(s) and/or alcohol or refuses to submit to a test when required, the City shall advise the individual of the resources available for evaluating and resolving problems associated with prohibited drug use and alcohol misuse and document such referral. Program costs and subsequent controlled substance and/or alcohol testing costs will be paid by the employee. It is the City's policy to terminate any employee whose BAC is 0.04 or higher. It is also the City's policy that an employee may be terminated for cause after the first controlled substance abuse offense pursuant to this policy. This zero tolerance policy does not excuse the City from evaluating any mitigating factors and engaging in the Skelly process with the employee.

Referral, Evaluation and Treatment: There is an exception to the zero tolerance policy for employees who test positively for alcohol, between .02 and .039. In that circumstance, the employee will be referred to the Substance Abuse Professional (SAP). When recommended by the SAP participation and completion of the rehabilitation program is mandatory. Failure of an employee to attend and/or complete a prescribed program will result in termination from employment. However, if an employee follows the rehabilitation program recommended by the SAP, tests negative on the Return-To-Duty Drug Test and agrees to and signs a Last Chance Agreement and Return-To-Duty Agreement, then the employee will not be terminated based on the previous positive test. If the SAP does not recommend the rehabilitation program, then the employee can return upon a negative Return-To-Duty Drug Test, so long as the employee signs a Last Chance Agreement and Return-To-Duty Agreement. As is mentioned above, this accommodation will only be afforded when an employee's alcohol test result is between 0.02 and 0.039; and not higher than a BAC of 0.04. The duration and frequency of follow-up testing will be determined by the SAP but will not be shorter than one year of testing or longer than five years of testing.

#### ***D. NOTIFYING THE CITY OF CRIMINAL CONVICTION***

Under the DFWA, employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the workplace. All employees that are subject to DOT regulations are required to notify management in writing of any criminal drug or alcohol statute convictions he/she receives for a violation occurring in the workplace, no later than five calendar days after such a conviction. Within 10 calendar days of receiving such notice, the City shall provide written notification of the conviction to the appropriate regulating or licensing authority when required by regulation. Within 30 calendar days of receiving notice of the conviction, the City shall take appropriate disciplinary action, or require the employee to participate and successfully complete a drug rehabilitation program. Law enforcement shall be notified, as appropriate and when legally required, where criminal activity is suspected.

#### ***E. PROPER APPLICATION OF THE POLICY***

The City is dedicated to assuring fair and equitable application of this Substance Abuse Policy. Therefore, supervisors are required to administer all aspects of the policy in an unbiased and impartial manner. Any supervisor who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy with respect to his/her subordinates shall be subject to disciplinary action, up to and including termination.

#### ***F. TESTING FOR PROHIBITED SUBSTANCES***

Analytical urine controlled substance testing and breath testing for alcohol will be conducted as required under Department of Transportation guidelines. These same guidelines will be used for all employees, not just the employees subject to the DOT. All employees shall be subject to testing prior to employment, for reasonable suspicion, and following an accident, as defined in the Department of Transportation guidelines. Safety-sensitive employees who perform safety-sensitive functions as defined in the Department of Transportation guidelines shall also be subject to testing on randomly selected, unannounced basis.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the Department of Health and Human Services (DHHS). All testing will be conducted consistent with the procedures put forth in the Department of Transportation guidelines.

The controlled substances that will be tested for include marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP). An initial controlled substance screen will be conducted on each specimen. For those specimens that are positive, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the controlled substance levels present are above the minimum thresholds established in the Department of Transportation guidelines.

Tests for alcohol concentration will be conducted utilizing an approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). If the ini-

tial test indicated an alcohol concentration of 0.02 or greater, a confirmation test will be performed to confirm the result of the initial test. An employee who has a confirmed alcohol concentration of 0.02 but less than 0.04 will be removed from his/her position for at least twenty-four hours. If the retest results in an alcohol concentration of 0.02 or less, the employee will not be removed from his/her position. An alcohol concentration of 0.04 or greater on the retest will be considered a positive alcohol test and in violation of Department of Transportation guidelines and this policy.

Any employee who has a confirmed positive controlled substance or alcohol test will be removed from his/her position, informed of educational and rehabilitation programs available, and evaluated by a Substance Abuse Professional (SAP).

The City affirms the need to protect individual dignity, privacy and confidentiality throughout the testing process.

**Employees in Safety-sensitive positions will be tested under any of the following circumstances. Non-safety sensitive positions will not be subject to random drug testing or periodic testing. Only specific positions will be subject to post-marine incident testing.**

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

All candidates for employment for safety-sensitive positions, including any employee transferring from a non-safety-sensitive to a safety-sensitive position will be required to undergo a pre-employment drug test at a time and place designated by the City. The regulations require urine controlled substance testing of candidates for positions that require Class A or B drivers' licenses. Candidates who have a verified positive controlled substance test may have their offer of employment rescinded. An employee who transfers, demotes, or promotes into a position that requires a Class A or B driver's license will be subject to urine testing prior to starting the new assignment. A verified negative drug test result must be received from the Medical Review Officer (MRO) before an employee or applicant can be allowed to perform any safety-sensitive function for the first time. If a pre-employment test is canceled, the individual will be required to undergo another test and successfully pass the test with a verified negative result before performing safety-sensitive duties. Receipt of satisfactory test results is required prior to employment and failure of a controlled substance test will disqualify the applicant from further consideration for employment.

Effective July 1, 2015, and in accordance with the revised 49 CFR Part 40, the City must make good faith efforts to obtain the previous two (2) years DOT drug and alcohol testing results information for those applicants who worked for DOT regulated employers. The City will obtain a written consent from the employee that allows their previous DOT regulated employers to release drug and alcohol testing information. If the employee refuses to provide the written consent, he or she will not be hired into the safety-sensitive position. When a covered employee or applicant has previously failed or refused a pre-employment drug test administered under this part, the employee must provide the employer proof of having successfully completed a referral, evaluation and treatment plan.

In addition, if the employee has not performed any safety-sensitive function for at least thirty (30) consecutive calendar days regardless of the reason, and has been out of the random pool during that time, the employee must pass a pre-employment drug test be-

fore he or she is allowed to return to performing safety-sensitive duties.

Pre-employment testing also applies to all other candidates for City employment, not strictly those candidates that are safety sensitive and/or covered by DOT regulations.

### **Reasonable Suspicion Testing**

All safety-sensitive employees will be subject to urine and /or breath testing when there is a reason to believe that controlled substances or alcohol use is adversely affecting job performance and only if a reasonable suspicion observation is made just before, during, or just after the employee's performance of a safety-sensitive function. The employee will be escorted to the collection site and told not to put anything in his/her mouth until the drug and alcohol test has been completed. If the drug and alcohol test is not conducted within two (2) hours, the reason(s) for the delay must be documented and kept in the employee's reasonable suspicion test file. All attempts to complete the drug and alcohol test must cease after eight (8) hours. Under this policy, an employee is not allowed to perform any safety-sensitive function until the City has received a negative test result for both drug and alcohol tests. An employee whose drug test and alcohol test produces a negative result shall be promptly returned to his or her regular work and be made whole for any lost wages, unless the employee is suspended for any additional purposes concurrent with the waiting of the test results. A reasonable suspicion referral for testing will be made on the basis of documented objective facts and circumstances which are consistent with the effects of substance abuse. Examples of reasonable, individualized suspicion include, but are not limited to, the following:

1. Adequate documentation of unsatisfactory work performance or on-the-job behavior.
2. Physical signs and symptoms consistent with prohibited substance use.
3. Occurrence of a serious or potentially serious accident that may have been caused by human error.
4. Fights (to mean physical contact), assaults and flagrant disregard or violations of established safety, security, or other operation procedures.

Reasonable suspicion determinations will be made by a supervisor who has received training to detect the signs and symptoms of illegal drug and/or alcohol use and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to prohibited substance abuse or misuse.

Supervisors of the covered employees must attend at least one hour of training on alcohol misuse and at least one hour of training on illegal drug use. This training must cover the physical, behavioral, speech and performance indicators of probable alcohol misuse and controlled substance use.

Reasonable suspicion testing also applies to all other candidates for City employment, not strictly those candidates that are safety sensitive and/or covered by DOT regulations.

### **Periodic Testing**

Except as provided below, periodic testing for dangerous drugs is required in the following situations:

- A. As part of a required annual physical examination for a pilot;

- B. At least 185 days prior to applying for an original issuance of a license, a renewal or raise in grade of a license, a certificate of registry (COR) or raise in grade of COR, an original issuance or reissuance of a merchant mariner's document, or the first endorsement as an able seaman, life boatman, qualified member of the engine department, or tankerman. The applicant shall submit the results of all such tests to the USCG Regional Examination Center.

A periodic test is not required (Exceptions) if:

- A. The person has passed a chemical test for dangerous drugs within the last six months, with no subsequent positive tests during the remainder of the six-month period; or
- B. During the previous 185 days, the person has been subject to a random drug testing program for at least 60 days and has not failed or refused to participate in a chemical test for dangerous drugs.

### **Post-Accident Testing**

Every employee must immediately notify their supervisor when an accident has occurred. Any employee will be required to undergo controlled substance testing if they are involved in an accident with any City equipment or vehicle that results in an injury or a fatality. This includes all employees who are on duty and operating the equipment or vehicle and any other employee whose performance could have contributed to the injury or accident. A post-accident test will be conducted if an accident results in injury or a fatality: (1) which requires transportation to a medical treatment facility; (2) where one or more pieces of equipment or vehicles incurs disabling damage that requires extensive repair or towing; (3) when required by Workers' Compensation Guidelines; or (4) when a safety-sensitive employee receives a citation under State or local law for a moving traffic violation arising from an accident.

Following an accident, the employee will be tested as soon as possible. The alcohol test should be administered within two (2) hours of the accident. If testing cannot be completed within two (2) hours a report must be filed documenting why attempts were unsuccessful and attempts to collect must continue. If The City is unable to obtain an alcohol test within eight (8) hours, attempts to collect must cease and the two (2) hours written report must be updated with an explanation of the reason(s) the test could not be performed. An employee is prohibited from alcohol use for eight (8) hours following the accident or until he or she undergoes a post-accident alcohol test, whichever occurs first. Employees in safety-sensitive positions that are subject to post-accident testing are required to remain readily available for testing for the next eight (8) hours for an alcohol test and for the next thirty-two (32) hours for a drug test, unless tested or excused from testing. Except in medical emergencies, failure of any employee to remain readily available for drug and/or alcohol testing will be considered a refusal to submit to testing. Any employee who leaves the scene of the accident without appropriate authorization prior to submission to controlled substance and alcohol testing will be considered to have refused the test and will be subject to termination. Post-accident testing of safety-sensitive employees will include not only the operation personnel, but any other covered employees whose performance could have contributed to the accident.

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leav-

ing the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

If it is determined that a post-accident test is required, the employee's supervisor must notify the DER within twenty-four (24) hours of the accident.

If the City is unable to perform post-accident tests within the required period noted above, the City may use the post-accident test results administered by State or local law enforcement personnel under their own authority, provided the test conforms to applicable federal, state, and local requirements and the results are obtained by the City.

Following a post-accident test, the employee is not allowed to perform any safety-sensitive function until the City has received negative test results. An employee whose drug test and/or alcohol test produces a negative result shall be promptly returned to his or her regular work and be made whole for any lost wages, unless the employee is suspended for any additional purposes concurrent with the waiting of the test results.

### **Post-Serious Marine Incident (SMI) Testing**

Safety-sensitive employees directly involved in a serious marine incident must be chemically tested for evidence of illegal drugs and/or alcohol. A Serious Marine Incident means any marine casualty or accident, required by USCG regulations to be reported to the Coast Guard, and resulting in any of the following:

- A. One or more deaths;
- B. Injury to a Crewmember, passenger or other person which requires professional medical treatment beyond first aid;
- C. Damage to property over \$100,000;
- D. Actual or constructive total loss of any vessel subject to inspection under 46 USC § 3301;
- E. Actual or constructive total loss of any self-propelled vessel of 100 gross tons or more which is not subject to inspection under 46 USC § 3301;
- F. Discharge of 10,000 gallons or more of oil into U.S. navigable waters (whether or not a marine casualty was involved);
- G. A reportable discharge of a hazardous substance into U.S. waters, or release of reportable quantities into the U.S. environment (whether or not a marine casualty was involved).

### **Random Testing**

Employees working in safety-sensitive classifications will be subjected to randomly selected, unannounced testing. Note, there are some safety-sensitive positions that are not subject to DOT regulations. The random selection will be by a scientifically valid method. The employer must annually test at least 50% of the total number of covered employees on a random basis each year for controlled substances and 10% for alcohol. The test must be unannounced, with all employees selected from a random pool. Individuals in the pool may be randomly selected for drug testing only, alcohol testing only or may be randomly selected for both drug and alcohol testing. As is the nature of the random method, it is possible that some employees will be selected several times in one year, and other employees not be selected for several years. When an individual is randomly selected for both drug and alcohol testing, these tests will be administered during a single visit to the collection facility to minimize the number of work disruptions. Each safety-sensitive employee will have an equal chance of being tested each time selec-

tions are made. Safety-sensitive employees will be tested either just before departure, or during duty, or just after the employee has ceased performing his/her duty.

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

All employees, including safety-sensitive employees who previously tested positive on a controlled substance and/or alcohol test must be evaluated and released to duty by the Substance Abuse Professional (SAP) before returning to duty. The employee needs to have a verified negative controlled substances test or if applicable, a breath alcohol test value less than 0.02. Employees will be required to undergo unannounced follow-up controlled substance and/or alcohol breath testing following returning to duty. The duration and frequency will be determined by the SAP. However, it shall not be less than 6 tests during the first 12 months, or longer than 60 months in total, following return to duty.

Employees who have been on an approved or unapproved leave from the workplace for more than thirty (30) days are required to submit to a drug and alcohol test prior to returning to work in a safety-sensitive position. The test must produce a negative result for drugs, and a negative result of less than 0.04 for alcohol before the employee is returned-to-duty. The City has a zero tolerance policy regarding drug and alcohol abuse. Therefore, it is the City's policy that any employee who tests positive for drugs and/or alcohol for the first offense may be terminated under this policy.

### **Employee Requested Testing**

Any employee who questions the result of a required controlled substance test under Department of Transportation guidelines may request that an additional test be conducted. This additional test may be conducted at the same laboratory or at a different DHHS certified laboratory. The test must be conducted on the split sample that was provided at the same time as the original sample. All costs for such testing are to be paid by the employee unless the second test invalidated the original test. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in the Department of Transportation guidelines. The safety-sensitive employee's request for a retest must be made to the MRO within 72 hours of notice of the initial test result. Requests after 72 hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee.

## ***G. PROCEDURES - CHAIN OF CUSTODY FOR CONTROLLED SUBSTANCE SPECIMENS***

1. At the time a specimen is collected, the employee will be given a copy of the specimen collection procedures.
2. Urine will be in a wide-mouthed clinic specimen container which will remain in full view of the employee until split, transferred to, sealed and initialed in two tamper-resistant urine bottles.
3. Immediately after the specimens are collected, the urine bottles will, in the presence of the employee, be labeled and then initialed by the employee. If the sample must be collected at the site other than the controlled substance and/or alcohol testing laboratory, the specimens will then be placed in the transportation container. The container will be sealed in the employee's presence and the employee will be asked to initial or sign the container. The container will be sent to the designated testing laboratory on that day or the earliest business day by the

fastest available method.

4. The technician completes the Federal Chain of Custody form certifying that the specimen is properly collected, identified and labeled and attached to and mailed with the specimen.

#### ***H. PROCEDURES - SPECIMEN COLLECTION OF STRANGE AND/OR UNRECOGNIZABLE SUBSTANCES***

1. An employee is observed with a strange and/or unrecognizable substance.
2. The supervisor, in the presence of a witness, places the strange and/or unrecognizable substance into a clear plastic bag. The bag is sealed, labeled and signed by both the supervisor and a witness.
3. An incident report is made and signed by both the supervisor and a witness.
4. The plastic bag containing the specimen and a copy of the incident report is taken to the collection site for transportation to the laboratory for analysis.
5. If a verified adulterated or substituted drug test result is received, this will be handled in the same manner as a confirmed positive test for a controlled substance and the employee will immediately be removed from performing safety-sensitive functions. This action will be taken upon receiving the initial report of the verified adulterated or substituted test result. If a controlled substance test result is received indicating that the employee's specimen was negative dilute with a creatinine level greater than or equal to 2 mg/dL and less than 5 mg/dL, a second collection must take place immediately under direct observation.

#### ***I. PROCEDURES - ALCOHOL CONCENTRATION***

1. The employee and the on duty Breath Alcohol Technician (BAT) complete the alcohol testing form to ensure that the results are properly recorded, and an initial breath sample is taken.
2. If the results of the initial test show an alcohol concentration of 0.02 or greater a second or confirmation test must be conducted. The confirmation test must not be conducted less than 15 minutes after, or more than 20 minutes after the screening test.

#### ***J. NON SAFETY-SENSITIVE POSITIONS***

**As is mentioned above, all other regular employees in non-safety-sensitive positions may be tested under any of the following circumstances:**

- Pre-Employment Testing
- Reasonable Suspicion Testing
- Post-Accident Testing
- Return-to-Duty Testing
- Employee Requested Testing

The terms for each of these types of testing and precisely the same as those outlined above for Safety-Sensitive Employees.

#### ***K. RECORD RETENTION***

Drug testing records will be maintained in Human Resources or by a 3<sup>rd</sup> party administrator. Employees have a right to examine their own drug and alcohol testing records, provide information to dispute the results, and have access to any pertinent data. They also have a right to obtain a copy of their own drug and/or alcohol testing results by submitting a written request to the DER.

The City will safeguard the confidentiality of drug and alcohol testing records and protect the privacy of the individuals tested. Individual test results or medical information will be released to third parties (e.g. previous employer, unions) only with the employee's specific written consent, or to those parties authorized by the DOT or FTA to receive such information without the employee's consent. Specific written consent applies only to a particular piece of information released to a particular person or organization at a particular time. Blanket releases are specifically prohibited by the DOT.

The employee's written consent is not required in administrative or legal proceedings such as:

1. A lawsuit, grievance, or administrative proceeding brought by, or on behalf of the employee, resulting from a positive drug or alcohol test or a refusal to test; or
2. A criminal or civil action resulting from an employee's performance of safety-sensitive duties where the alcohol or drug test information is deemed relevant.

Access to City facilities and drug and alcohol program records also will be provided, without the employee's consent, to DOT or FTA agency representatives; the National Transportation Safety Board as part of an accident investigation; or a Federal, state or local safety agency with regulatory authority over the City or the employee.

Negative test results will be held for one (1) year and the positive test results will be held for five (5) years. Documentation of employees who refuse to take the controlled substance test will also be included in the records. All records pertaining to controlled substance and alcohol testing will be confidential on a need-to-know basis. Positive controlled substance or alcohol tests results and related information will be used only for medical or disciplinary purposes.

#### ***L. UNANNOUNCED SEARCHES ON CITY PROPERTY***

The City reserves the right to conduct unannounced searches for drugs and/or alcohol anywhere on City property.

Unannounced searches must be:

1. Approved in advance by the DER or designee; and
2. Conducted in the presence of the highest ranking manager at the employee's work location.

Employees who do not cooperate with unannounced searches may be subject to disciplinary action, up to and including termination.

#### **M. OTHER**

The City Human Resource Department shall be responsible for the administration and conformance with this policy. No other City department shall promulgate policies or rules that are inconsistent with or that interpret or administer this policy other than as permitted by the City Human Resources Department. The City reserves the right to revise this policy at any time, with the approval of the City Council.

#### **N. CONTACT PERSON**

Any questions regarding this policy should contact the following City representative:

Name: City Manager, or designee  
Title: City Manager  
Address: Post Office Box 707, Avalon, CA 90704  
Telephone: (310) 510-0220

#### **O. DEFINITIONS**

**ACCIDENT** - An unintended happening or mishap where there is loss of human life (regardless of fault), bodily injury, significant property damage, or an injury as defined by Workers' Compensation Guidelines.

**ACCIDENT OR CASUALTY (USCG)** –Any casualty or accident involving any vessel other than public vessels (vessels owned and operated by U.S. Government), if such casualty or accident occurs upon the navigable waters of the United States, or any casualty or accident involving any U.S. vessel which is not a public vessel.

**ADULTERATED SPECIMEN** - A urine specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

**ALCOHOL** - The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol including methyl or isopropyl alcohol.

**ALCOHOL CONCENTRATION** - The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under this regulation. For example, 0.02 means 0.02 grams of alcohol in 210 liters of expired deep lung air.

**ALCOHOL USE** - Consumption of any beverage, mixture, or preparation, including any medication containing ethyl alcohol. Since ingestion of a given amount of alcohol produces the same alcohol concentration in an individual whether the alcohol comes from a mixed drink or cough syrup, the Department of Transportation prohibits the use of any substance containing alcohol, such as prescription or over-the-counter medication or liquor-filled chocolates. Prescription medications containing alcohol may have a greater impairing affect due to the presence of other elements (e.g., antihistamines).

**BREATH ALCOHOL TECHNICIAN (BAT)** - A person trained to proficiency in the operation of the Evidential Breath Testing (EBT) device that the technician is using in the alcohol testing procedures. BATs are the only qualified personnel to administer the EBT tests.

**CANCELLED TEST** –A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which 49 CFR Part 40 otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test. The test is declared cancelled by a Medical Review Officer.

**CHAIN OF CUSTODY** - The procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of collection to final disposition.

**CHEMICAL TEST** - A scientifically recognized test which analyzes an individual's breath, blood, urine, saliva, bodily fluids, or tissues for evidence of Dangerous Drug or alcohol use.

**CITY** - Means CITY OF AVALON.

**CITY TIME** - Any period of time in which the employee is actually performing, ready to perform, or immediately available to perform any functions.

**COLLECTION SITE** - A place designated by the City where individuals present themselves for the purpose of providing a specimen of either urine and/or breath.

**COMMERCIAL MOTOR VEHICLE** - A motor vehicle, or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle: (1) has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or (2) has a gross vehicle weight rating of 26,001 or more pounds; or (3) is designed to transport 16 or more passengers, including the driver; or (4) is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (40 CFR Part 172, Subpart F) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations.

**CONFIRMATION TEST** - For alcohol testing means a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration. For controlled substances testing this means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy. (Gas chromatography/mass spectrometry

(CG/MS) is the only authorized confirmation method of cocaine, marijuana, opiates, amphetamines, and phencyclidine.)

**CONTROLLED SUBSTANCES** - Any drug classified by the U.S. Drug Enforcement Agency (DEA) into the five schedules or classes on the basis of their potential for abuse, accepted medical use, and accepted safety for use under medical supervision.

**CONTROLLED SUBSTANCE (DRUG) TEST** –A method of detecting and measuring the presence of alcohol and other drugs classified by the U.S. Drug Enforcement Agency (DEA), whether legal or illegal, in a person's body. A controlled substance test may be either an initial test or confirmation test. An initial controlled substance test is designed to identify specimens having concentrations of a particular class of drug above a specified concentration level. It eliminates negative specimens from further consideration.

Controlled substances will be tested under the Department of Health and Human Services guidelines. **The primary (initial or screening) controlled substance test thresholds for a verified positive test result for a safety-sensitive employee are those that are equal to or greater than:**

Amphetamines			
Amphetamine/Methamphetamine (1)	500	ng/ml	
MDMA (Methylenedioxymethamphetamine)	500	ng/ml	
Cocaine Metabolites	150	ng/ml	
Marijuana Metabolites	50	ng/ml	
Opiate Metabolites			
Codeine/Morphine (2)	2000	ng/ml	
6-Acetylmorphine	10	ng/ml	
Phencyclidine (PCP)	25	ng/ml	

**The primary (initial or screening) controlled substance test thresholds for a verified positive test result for a non-safety-sensitive employee or a safety-sensitive employee tested under City authority are those that are equal to or greater than:**

Alcohol	.04	grams
Amphetamines	1000	ng/ml
Barbiturates	300	ng/ml
Benzodiazepines	300	ng/ml
Cocaine Metabolites	300	ng/ml
Hydrocodone	300	ng/ml
Hydromorphone	300	ng/ml
Marijuana Metabolites	50	ng/ml
Methadone	300	ng/ml
Methaqualone	300	ng/ml
MDMA (Ecstasy)	1000	ng/ml
Opiates	2000	ng/ml
Oxycodone	300	ng/ml
Oxymorphone	300	ng/ml
Phencyclidine	25	ng/ml
Propoxyphene	300	ng/ml

A confirmation drug testing is a second analytical procedure to detect the presence of a specific drug or its metabolite. The confirmation procedure is conducted independent of the initial test and uses a different technique and chemical principle in order to confirm reliability and accuracy. **The confirmatory controlled substance test thresholds for a verified positive test result for a safety-sensitive employee are those that are equal to or greater than:**

Amphetamines		
Amphetamine	250	ng/ml
Methamphetamine (3)	250	ng/ml
MDMA (Methylenedioxyamphetamine)	250	ng/ml
MDA (Methylenedioxyamphetamine)	250	ng/ml
MDEA (Methylenedioxyamphetamine)	250	ng/ml
Cocaine Metabolite (Benzoylecgonine)	100	ng/ml
Marijuana Metabolite		
(THCA: Delta-9-tetrahydrocannabinol-9-carboxylic acid)	15	ng/ml
Opiate Metabolites		
6-Acetylmorphine	10	ng/ml
Codeine	2000	ng/ml
Morphine	2000	ng/ml
Phencyclidine (PCP)	25	ng/ml

**The confirmatory controlled substance test thresholds for a verified positive test result for a non-safety-sensitive employee or a safety-sensitive employee tested under City authority are those that are equal to or greater than:**

Alcohol	.04	grams
Amphetamines		
Amphetamine	500	ng/ml
Methamphetamine (3)	500	ng/ml
MDMA (Ecstasy)	500	ng/ml
Barbiturates	200	ng/ml
Benzodiazepines	200	ng/ml
Cocaine Metabolites (Benzoylecgonine)	150	ng/ml
Marijuana Metabolite (THCA)	15	ng/ml
Methadone	200	ng/ml
Methaqualone	200	ng/ml
Opiates		
Codeine	2000	ng/ml
Hydrocodone	300	ng/ml
Hydromorphone	300	ng/ml
Morphine	2000	ng/ml
Oxycodone	300	ng/ml
Oxymorphone	300	ng/ml
6-Acetylmorphine (4)	10	ng/ml
Phencyclidine	25	ng/ml
Propoxyphene	200	ng/ml

(1) Methamphetamine is the target analyte

(2) Morphine is the target analyte

(3) Specimen must also contain amphetamine at a concentration greater than or equal to 100 ng/ml

**CONSORTIUM/THIRD PARTY ADMINISTRATOR (C/TPA)** –A service agent who provides or coordinates the provision of a variety of drug and alcohol testing services to employers. C/TPAs typically perform administrative tasks in conjunction with the City's DER concerning the operation of the employers' drug and alcohol testing programs. This City hires a TPA to administer drug and alcohol testing.

**COVERED EMPLOYEE (Drug Free Workplace and FMCSA)** - A person including a volunteer, applicant, or transferee, who performs a job function for the City.

**COVERED EMPLOYEE (USCG)** - means any person who performs crewmember duties.

**CREWMEMBER** –An individual who is:

- a. On board a vessel acting under the authority of a license, certificate of registry, or merchant mariner's document, whether or not the individual is a member of the vessel's crew; or
- b. Engaged or employed on board a vessel owned in the United States that is required by law or regulation to engage, employ, or be operated by an individual holding a license, certificate of registry, or merchant mariner's document, except individuals not required under Part 15 of Title 46 of the Code of Federal Regulations (manning requirements) to be on the vessel and who have no duties that directly affect the safe operation of the vessel.

**DANGEROUS DRUG** –A narcotic drug, a controlled substance, or a controlled substance analog (as defined in section 102 of the Comprehensive Drug Abuse and Control Act of 1970, 21 USC 802). See CONTROLLED SUBSTANCE (DRUG) Test above.

**DESIGNATED EMPLOYER REPRESENTATIVE (DER)** – The Personnel Officer is the City's authorized authority to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing following a positive test, test refusal or other policy violations. The DER also receives test results and other communications for the employer, consistent with Department of Transportation Guidelines.

**DEPARTMENT OF TRANSPORTATION GUIDELINES** - The controlled substance and alcohol testing rules (49 CFR Part 382, FMCSA - Commercial Motor Vehicle; Part 219, FRA – Railroad; Part 199, RHMSA – Pipeline; Part 655, FTA - Mass Transit; 14 CFR Part 120, FAA – Aviation; and 46 CFR Part 4, 5 and 16, USCG) setting forth the procedures for controlled substance and alcohol testing (49 CFR Part 40) in all the transportation industries.

**DILUTE SPECIMEN** - A specimen with creatinine and specific gravity values that are lower than expected for human urine.

**DISABLING DAMAGE** - Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disa-

blement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, mirrors or windshield wipers that makes them inoperative.

**DOT** - U. S. Department of Transportation.

**DRIVER** - Any person who operates a commercial motor vehicle. This includes full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer. For the purposes of pre-employment/pre-duty testing only, the term driver includes a person applying to an employer to drive a commercial motor vehicle.

**DRUG (CONTROLLED SUBSTANCE) METABOLITE** - The specific substance produced when the human body metabolizes (changes) a given drug (controlled substance) as it passes through the body and is excreted in urine.

**EMPLOYEE TRAINING (ALCOHOL)** - No training required. However, the City must provide covered employees with educational materials that explain the alcohol misuse requirements and the City's policies and procedures with respect to meeting those requirements. The information must be distributed to each covered employees and must include such information as the effects of alcohol misuse on an individual s health work, personal life, signs and symptoms of an alcohol problem; and the consequences for covered employees found to have violated the regulatory prohibitions.

**EMPLOYEE TRAINING (DRUGS)** - The City must train all employees who perform safety-sensitive duties on the effects and consequences of prohibited drug use on personal health, safety, and work environment, and on the manifestations and behavioral cues that may indicate drug use and abuse. The City must also implement an education program for safety-sensitive employees by displaying and distributing informational materials, a community service hotline telephone number for employee assistance and the City policy regarding drug use in the work place which must include information regarding the consequences under the rule of using drugs while performing safety-sensitive functions, receiving a verified positive drug test result, or refusing to submit to a drug test required under the rule.

**EQUIPMENT** - Any and all machinery, material, gear and the like in and/or around the City plants, on City premises, or on customer property and/or premises.

**EVIDENTIAL BREATH TESTING DEVICE (EBT)** - The device to be used for breath alcohol testing.

**INTOXICANT** –Any form of alcohol, drug, or combination thereof.

**INTOXICATED** - An individual is intoxicated when the individual is operating a vessel other than a recreational vessel and has an alcohol concentration of .04 percent by weight or more in his or her blood, or the effect of the intoxicant(s) consumed by the individual on the person's manner, disposition, speech, muscular movement, general appearance or behavior is apparent by observation.

**MARINE EMPLOYER** –The owner, managing operator, charterer, agent, master, or person in charge of a vessel, other than a recreational vessel.

**MEDICAL REVIEW OFFICER (MRO)** - A licensed physician responsible for analyzing laboratory results generated by an employer's controlled substance (drug) testing program. The MRO is knowledgeable about substance abuse disorders and has appropriate medical training to interpret and evaluate positive test result considering the individual's medical history and any other relevant biometric information.

**NEGATIVE DILUTE TEST RESULTS** - Drug test results that are negative for the five drug/drug metabolites but has a specific gravity value lower than expected for human urine.

**NEGATIVE TEST RESULTS** - For: (1) drug a verified presence of the identified drug or its metabolite below the minimum levels specified in 49 CFR Part 40, as amended; and (2) an alcohol concentration of less than 0.02 BAC.

**NON-NEGATIVE TEST RESULTS** - A test result found to be adulterated, substitute, invalid, or positive for drug/drug metabolites.

**PERFORMING (SAFETY-SENSITIVE FUNCTION)** - A safety-sensitive employee is considered to be performing a safety sensitive function and includes any period in which the safety-sensitive employee is actually performing, ready to perform, or immediately available to perform such functions.

**POSITIVE TEST RESULTS** - For: (1) for a drug test, a verified presence of the identified (screened and confirmed) drug or its metabolite at or above the minimum levels specified in 49 CFR Part 40, as amended, as verified by the MRO; and (2) for an alcohol test, a confirmed alcohol concentration of 0.04 BAC or greater, as verified by the MRO.

**POST-ACCIDENT ALCOHOL AND/OR CONTROLLED SUBSTANCE TESTING** - Conducted after accidents on employees whose performance could have contributed to the accident. For drivers this is determined by a citation for a moving traffic violation and for all fatal accidents even if the driver is not cited for a moving traffic violation. See Accident.

**PRE-EMPLOYMENT CONTROLLED SUBSTANCE TESTING** - Conducted before applicants are hired or after an offer to hire, but before actually performing functions for the first time. This also required when employees transfer to a safety sensitive-position.

**PROHIBITED SUBSTANCES** - Is synonymous to drug abuse and/or alcohol misuse or abuse.

**RANDOM ALCOHOL AND/OR CONTROLLED SUBSTANCE TESTING** - Conducted on a random unannounced basis just before, during or just after performance of safety sensitive functions.

**REASONABLE SUSPICION ALCOHOL AND/OR CONTROLLED SUBSTANCE TESTING** - Conducted when a trained supervisor observes behavior or appearance that is characteristic of alcohol misuse or controlled substance abuse.

**REFUSE TO SUBMIT (TO AN ALCOHOL AND/OR CONTROLLED SUBSTANCE TEST)** - When an employee fails to provide an adequate breath or urine sample for testing without a valid medical explanation after that employee received notice of the requirement to be tested, or engages in conduct that clearly obstructs the testing process (i.e., verbal declarations, obstructive behavior or physical absence resulting in the inability to conduct the test.)

**REHABILITATION** - The total process of restoring an employee to satisfactory work performance through constructive confrontation, referral to the SAP and participation in SAP recommendations such as education, treatment and/or support groups to resolve personal, physical or emotional/mental problems which contributed to job problems.

**RETURN-TO-DUTY AND FOLLOW-UP ALCOHOL AND/OR CONTROLLED SUBSTANCE TESTING** - Conducted when an individual who has violated the prohibited alcohol or controlled substance conduct standards returns to performing safety sensitive duties. Follow-up tests are unannounced and at least 6 tests must be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty upon the SAP recommendation.

**RETURN-TO-DUTY AGREEMENT** - A document agreed to and signed by the employer, employee and the Substance Abuse Professional that outlines the terms and conditions under which the employee may return to duty after having had a verified positive controlled substance test result or an alcohol concentration of 0.02 and 0.039 on an alcohol test.

**SAFETY-SENSITIVE EMPLOYEE (FUNCTION AND/OR POSITION)** - An employee is considered to be performing a safety-sensitive function during any period in which that employee is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions. Safety sensitive functions are those that are potentially dangerous, where the discharge of those duties contains inherent risks of injury to yourself or others. For a list of safety sensitive positions, please see contact the Human Resources Department.

**SCREENING (INITIAL) TEST** - In alcohol testing, it means an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in their system. In controlled substance testing, it means an immunoassay screen to eliminate negative urine specimens from further consideration.

**SUBSTANCE ABUSE PROFESSIONAL (SAP)** - A licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker (with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol-related disorders, the license alone does not authorize this), Certified Employee Assistance Professional (CEAP), or addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders, who makes recommendations concerning education, treatment, follow-up testing, and aftercare.

**SUBSTITUTED SPECIMEN** - A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with normal human urine.

**SUPERVISOR** - A person in authority who has had one hour of training on the signs and symptoms of alcohol abuse and an additional hour of training on the signs and symptoms of controlled substance abuse.

**VEHICLE** - A bus, electric bus, van, automobile, rail car, trolley car, trolley bus, or vessel used for mass transportation.

**VALIDITY TESTING** - The evaluation of a drug specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

**VERIFIED NEGATIVE DRUG TEST** - A drug test result reviewed by a Medical Review Officer and determined to have no evidence of prohibited drug use above the minimum cutoff levels established by Department of Transportation Guidelines.

**VERIFIED POSITIVE DRUG TEST** - A drug test result reviewed by a Medical Review Officer and determined to have evidence of prohibited drug use above the minimum cutoff levels established by Department of Transportation Guidelines.

**VOLUNTEER** – A non-employee who performs a service as a charitable act. A volunteer is deemed a covered employee and subject to FTA drug and alcohol testing if he or she performs a safety-sensitive function and receives remuneration in excess of actual personal expenses incurred while performing the volunteer service, or they are required to hold a commercial drivers' license to operate a vehicle.

## **APPENDIX A**

### **CITY OF AVALON EMPLOYEE POSITIONS SUBJECT TO RANDOM DRUG TESTING**

**CITY OF AVALON**, as of this date has established a compelling need for a drug-free workplace. Pursuant to relevant federal laws, those positions that are deemed public safety positions will be subject to random drug and alcohol testing. All safety-sensitive positions that will be subject to random drug tests are detailed below. The classifications of positions subject to random drug testing are listed below.

#### **FMCSA & MARINE**

- Class "A or B" commercial driver's license holder
- Safety-Sensitive Personnel
- Controlling dispatch or movement of a commercial vehicle or equipment used in a commercial vehicle
- Maintaining (including repairs, overhaul and rebuilding) a commercial vehicle or equipment used in a commercial vehicle

An Administrator will maintain a list of the specific positions within the above listed classifications that are covered under Department of Transportation regulations. All employees who will be subjected to random drug tests will be informed of this policy and are required to sign the Substance Abuse Policy acknowledging their receipt of the policy. Employees will be eligible for random testing once the policy has been adopted and all of the stated requirements for the administration of the policy meet the requirements for compliance.

**ACKNOWLEDGMENT OF CITY OF AVALON  
DRUG AND ALCOHOL TESTING POLICY**

I, the undersigned employee hereby certify that I have been furnished with a copy of the City of Avalon's Drug and Alcohol Testing Policy and that I have read and understand same. I am fully aware, and agree that I may be discharged or otherwise disciplined for any violation by me of said Policy.

Name: \_\_\_\_\_

Department: \_\_\_\_\_ Job Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**ACKNOWLEDGMENT OF CITY OF AVALON  
RANDOM DRUG TESTING OF SAFETY-SENSITIVE EMPLOYEES**

I, the undersigned employee hereby certify that I have been furnished with a copy of the City of Avalon's Drug and Alcohol Testing Policy and that I have read and understand same. I am fully aware, and agree that I qualify as a safety-sensitive employee, and am thereby subject to random drug testing. I am fully aware, and agree that I may be discharged or otherwise disciplined for any violation by me of said Policy.

Name: \_\_\_\_\_

Department: \_\_\_\_\_ Job Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_