

**RECESSED MEETING OF THE MAYOR AND BOARD OF ALDERMEN
TUESDAY, SEPTEMBER 20, 1994 - 7 P.M.
MUNICIPAL COURTROOM - 305 MONROE STREET**

The Mayor and Board of Aldermen of the City of Clinton met in Recessed Meeting at 7 P.M., at the Municipal Courtroom, 305 Monroe Street, pursuant to a Recess Order adopted by said Mayor and Board of Aldermen at their Recessed Meeting of September 14, 1994, as found on Page 729 of this Minute Book W.

WELCOME AND CALL TO ORDER - Mayor Rosemary Aultman

INVOCATION AND PLEDGE OF ALLEGIANCE TO THE FLAG

The Invocation was led by Alderman Phil Fisher followed by the Pledge of Allegiance to the Flag led by Alderman Herb Touchton.

ROLL CALL - City Clerk Nelson Byrd

Present - Jehu Brabham - Alderman-at-Large
O. C. George Ferrell - Alderman Ward 1
Rodney DePriest - Alderman Ward 2
Ben Todd - Alderman Ward 3
Phil Fisher - Alderman Ward 4
Herb Touchton - Alderman Ward 5
Sharbert Lott - Alderman Ward 6
Mayor Rosemary Aultman - Presiding

City Attorney Ken Dreher
City Clerk Nelson Byrd

RECOGNITIONS

Miss Natalie Steele was recognized with a certificate for bringing favorable recognition to the City of Clinton as a 1994 Star Search vocalist. Recognition was also to be given to Police Officer Randy Ruffin, but due to job conflict Officer Ruffin's recognition will be given at the next Board Meeting.

AGENDA CHANGES

Mayor Aultman stated that Agenda Item #7, the approval of the Final Plat of Park Ridge Subdivision, has been postponed until the next meeting for further information.

APPROVAL OF CONSENT AGENDA ITEMS A-W:

MOTION made by Alderman Fisher and **SECONDED** by Alderman Lott to approve Consent Agenda Items A-W as listed on page 747 of this Minute Book W, noting that Consent Agenda Items B & W, will serve to advertise favorably the opportunities, possibilities, and resources of the City of Clinton. Quotes listed in item M are on file in the Office of the City Clerk. **MOTION CARRIED UNANIMOUSLY.**

PROFESSIONAL SERVICES FOR 1994 CDBG PROJECT APPROVED

Acting upon the recommendation of the Selection Committee Members appointed at the 8-16-94 meeting of the Board of Aldermen to review the proposals received for professional services to administer the 1994 CDBG project and make a recommendation to the Board of Aldermen regarding said proposals, **MOTION** made by Alderman Brabham and **SECONDED** by Alderman Touchton to accept the recommendations as brought forward by said selection committee as follows: Administrator: Sample & Associates; Legal: Pyle, Dreher, Mills & Dye; Appraiser: Jim Terry; Review Appraiser: M. Dasha White; Engineering - ABMB Engineers. **MOTION CARRIED UNANIMOUSLY.** Copy of said proposals are on file in the Office of the City Clerk.

EMPLOYEE DRUG AND ALCOHOL ABUSE POLICY ADOPTED

MOTION made by Alderman Touchton and **SECONDED** by Alderman Fisher to accept the Drug and Alcohol Abuse Policy as found on pages 749-794 of this Minute Book W. **MOTION CARRIED UNANIMOUSLY.** Said policy will become effective thirty days after passage.

CONTRACT WITH STES FOR WASTEWATER SERVICES POSTPONED FOR FURTHER CHANGES IN CONTRACT

Following a lengthy discussion of the proposed contract between the City of Clinton and STES for wastewater services in which the aldermen requested several changes be made prior to adoption, Mayor Aultman requested City Attorney Ken Dreher to work with Attorney James Peden who represents STES to make necessary changes. Mayor Aultman stated that as soon as the contract is ready, she will call a special meeting of the Board for adoption so that STES can begin services on October 1, 1994, as planned. **NO BOARD ACTION** taken.

REQUEST FROM JOHN MOSLEY FOR BOARD OF ALDERMEN TO INCLUDE PLACE OF EMPLOYEE RESIDENCES IN CRITERIA FOR GRANTING TAX EXEMPTIONS

Local business owner John Mosley requested the Board of Aldermen to begin considering, as part of their criteria for granting tax exemptions to businesses, how many of the employees of that business receiving a tax exemption are Clinton residents. **NO BOARD ACTION** necessary.

ADJOURNMENT - 8:15 P.M.

There being no further business to discuss, **MOTION** made by Alderman Fisher and **SECONDED** by Alderman Todd to adjourn. **MOTION CARRIED UNANIMOUSLY.**

Copy of Agenda may be found on Pages 747-748 of this Minute Book W.

APPROVED: Rosemary Aultman
Rosemary Aultman, Mayor

October 3, 1994
Date

ATTEST: Nelson Byrd
Nelson Byrd, City Clerk

10-3-94
Date

SEAL

CITY OF CLINTON MISSISSIPPI
POLICY ON DRUG/ALCOHOL ABUSE
SECTION I

i

DRUG/ALCOHOL ABUSE POLICY
SECTION I
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**THE CITY OF CLINTON
PROCEDURES SECTION ON SUBSTANCE ABUSE**

PART I

INTRODUCTION

On November 18, 1988, the Drug-Free Workplace Act of 1988 was enacted by the federal government. The Act requires all grantees (employers) receiving grants from any federal agency to certify that they will maintain a drug free workplace. As a recipient of federal grants, the City of Clinton (City) is committed to complying with the requirements of this Act.

POLICY STATEMENT

The City of Clinton is committed to providing a safe workplace in which employees work effectively with one another and with the public they serve. There is considerable evidence that alcohol and/or drug use can result in impaired work performance and may pose significant risks to impaired employees, coworkers, and the public at large.

The City recognizes that drug and alcohol addictions are illnesses and yet believes that employees are responsible for their own behavior and for seeking treatment when appropriate. The City has a responsibility to all City workers and to the public and intends to create and maintain the safest work environment possible.

Therefore, effective _____, the City will implement the following policy on substance abuse to complement existing City personnel policies, practices, and procedures. Furthermore, the City adopts this policy to strengthen its commitment to maintain a drug-free workplace and comply with all federal and state laws regarding same. City employees will receive education on substance abuse and City Department Heads and designated supervisors will receive training on handling substance abuse problems in the workplace.

1. Accordingly, you are hereby advised that the City has implemented a drug and alcohol policy and conducts a testing program, pursuant to Section 71-7-1, et seq. Mississippi Code of 1972, Annotated, and you are hereby advised of the existence of said Act.
2. All information, interviews, reports, statements, memoranda and test results, written or otherwise,

received by the City through its drug and alcohol testing program are confidential communications except under certain circumstances as allowed by the Act.

3. An employee or job applicant shall be allowed to provide notice to the City of currently or recently used prescription or non-prescription drugs at the time of the taking of the specimen to be tested, and such information shall be placed in writing upon the employer's drug and alcohol testing custody and control form prior to initial testing.

PART II

Definitions

- a. Alcohol or Alcoholic Beverages shall mean any beverage that may be legally sold and consumed having an ethyl alcohol content in excess of .5% by volume.
- b. Confirmation Test shall mean a drug and alcohol test on a specimen to substantiate the results of a prior drug and alcohol test on the specimen. The confirmation test must use an alternate method of equal or greater sensitivity than that used in the previous drug and alcohol test.
- c. Drug shall mean any substance capable of producing physical, emotional, or mental changes through consumption.
- d. Employee shall mean any person who is directly or indirectly employed by the City of Clinton. This includes persons who work for the City through temporary employment agencies, student interns, volunteers, etc.
- e. Illegal Drug shall mean any drug or controlled substance, the sale or consumption of which is illegal.
- f. Prescription or Non-Prescription Medication shall mean a drug prescribed for use by a duly licensed physician, dentist or other medical practitioner licensed to issue prescriptions or a drug that is authorized pursuant to federal or state law for general distribution and use without a prescription in the treatment of human diseases, ailments, or injuries.
- g. Sensitive Position Employee shall mean all employees within the Police Department and all non-clerical employees within the Fire Department, all persons who operate any City owned motor vehicle and/or motorized construction equipment.

- h. Non-Sensitive Position Employee shall mean all other City employees not included in the definition of sensitive position employee.
- i. Reasonable Suspicion shall mean a belief that an employee is using or has used drugs in violation of the City's policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience, and may be based upon, among other things:
 - 1. Observable phenomena, such as direct observation of drug use and/or the physical symptoms or manifestations of being under the influence of drugs and/or alcohol.
 - 2. Abnormal conduct or erratic behavior while at work, absenteeism, tardiness or deterioration in work performance.
 - 3. A report of drug/alcohol use provided by reliable and credible sources and which has been independently corroborated.
 - 4. Evidence that an individual has tampered with a drug and alcohol test during his employment with the City.
 - 5. Information that an employee has caused or contributed to an accident while at work.
 - 6. Evidence that an employee is involved in the use, possession, sale, solicitation or transfer of drugs while working or while on City property or operating a piece of City owned machinery, equipment, or vehicle.

j. **Medical Review officer (MRO)**

A licensed physician responsible for receiving laboratory results generated by an employer's drug and/or alcohol testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's positive test result together with his or her medical history and any other relevant biomedical information.

k. **Random Testing** shall mean a system of drug/alcohol testing imposed without individualized suspicion that a particular individual is using illegal drugs, and may either be:

1. Uniform unannounced testing of designated employees occupying a specified area or position; or
2. A statistically random sampling of such employees based on a neutral criterion, such as social security numbers.

l. **Employee Assistance Program (EAP)** shall mean the City of Clinton authorized and approved counseling program which offers assessment, short-term counseling, and referral services to employees and their immediate families for a wide range of drug, alcohol, and mental health problems, and also monitors the progress of employees while in treatment.

m. **Chain of Custody** shall mean the procedures used and followed to account for the integrity of each specimen by tracking the handling and storage from point of specimen collection to final disposition of the specimen.

n. **Controlled Substance** shall mean a controlled substance in Schedules I through V of the Controlled Substance Act (21, U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15). Examples of controlled substances include amphetamines,

barbiturates, cocaine, methaqualone, opiates, phencyclidine (PCP), THC (marijuana), and Benzodiazepines.

2. Treatment and Rehabilitation

- a. The City recognizes that substance abuse problems can be treated successfully and, in the interest of promoting employee health, the City has provided for an Employee Assistance Program (EAP) as a resource for employees and their immediate families. Drug or alcohol dependent employees are urged to seek confidential help voluntarily through the EAP, their health care provider, or local social service agencies.
- b. Although rehabilitation efforts will be strongly encouraged, participation in the EAP will not serve as protection against the normal progressive disciplinary process associated with unsatisfactory job performance and/or unsatisfactory behavior. Moreover, EAP participation will not protect from discipline, including termination, those employees whose performance continues to be impaired by illegal drugs or alcohol, or who fail to meet the requirements of their treatment programs.

3. Testing

- a. If an employee's behavior or job performance suggests a reasonable suspicion to the supervisory personnel that substance abuse could be a problem, the employee shall be directed, after consultation with the department head, to undergo a medical evaluation which may include drug and/or alcohol testing. No such evaluation or test may be undertaken without the approval of the department head and EAP Coordinator.
- b. Refusal to undergo and cooperate in such an evaluation shall be considered a failure to comply with instructions and shall result in discipline, up to and including immediate termination of employment.

- c. Testing methods shall include urine and/or blood tests.
- d. All drug testing shall use urinalysis technology.
- e. All alcohol testing shall use blood testing methodology.
- f. The results of all medical evaluations and testings shall be treated as confidential, and distribution limited to the EAP Coordinator, Department Head, Director of Human Resources, Medical Review Officer, City Attorney, or their designees, or any other official with the City having the authority to recommend, initiate, or approve personnel actions, and under those circumstances authorized by Senate Bill 2172 of 1991. In no instance will medical information unrelated to work performance impairment be released. No other tests will be run on any urine or blood sample except for the use of controlled substances or alcohol.

4. Illegal Drug Use or Criminal Activity

- a. The manufacture, distribution, dispensation, possession, transfer, trafficking or use of illegal drugs, or the consumption of alcohol or abuse of any other illegal substance while on City property, in City vehicles, or while engaged in City business is prohibited and will result in disciplinary action, up to and including immediate termination of employment.
- b. The manufacture, distribution, dispensation, possession, transfer, trafficking or use of illegal drugs, or the abuse of any other illegal substance while on City property, in City vehicles, while engaged in City business, or while off duty by any sworn law enforcement officer is prohibited and will result in disciplinary action, up to and including immediate termination of employment.

5. Alcoholic Beverages

While the City does not intend to regulate off-the-job use of alcohol where work performance is not impaired, the distribution, dispensation, possession, transfer, or

use of alcohol during working hours will subject an employee to discipline, including termination of employment. Additionally, reporting to work under the influence of alcoholic beverages is proper cause for disciplinary action, up to and including termination of employment.

6. Arrests, Indictments and Convictions

- a. A City employee who is arrested or indicted and/or convicted of a criminal drug statute violation, whether on or off the job, shall notify his/her department head within five (5) working days of the arrest, indictment, and/or conviction. Failure to so notify will result in discipline, up to and including immediate termination of employment. Employees will be required to submit to a urine and/or blood test immediately upon or before returning to work.
- b. Any sworn law enforcement officer who is arrested or indicted and/or convicted of a criminal drug statute violation, whether on or off the job, shall notify his/her department head within 24 hours of the arrest, indictment, and/or conviction. Failure to so notify will result in discipline, up to and including immediate termination of employment. Sworn law enforcement officers will also be required to submit to a urine and/or blood test immediately upon or before returning to work.

7. Property Searches

In "reasonable suspicion" situations, the City reserves the right to use drug/alcohol detection techniques and to inspect for the presence of illegal drugs or other contraband in all City property assigned to the employee (including, but not limited to, lockers, desks, and motor vehicles). Such inspections will only be conducted by any certified police officer of the City of Clinton Police Department and with the approval of the department head, EAP Coordinator, and with the advice of the City Attorney. Prior to the search, the City Attorney shall determine whether a search warrant is necessary. The Department Head shall be present during the authorized search.

8. Motor Vehicle Accident or Personal Injury Accident

- a. Any City employee involved in a motor vehicle accident or an accident which requires medical attention to himself/herself or another person on City property, in a City vehicle or in a personal vehicle on city business, or during work hours, shall be required to submit to a urinalysis and/or blood test within two (2) hours of such incident at the direction of the department head. While awaiting these results his/her supervisor will not allow any work to be performed by such employee that could be hazardous to himself/herself or others.
- b. If an employee is conscious but hospitalized, the hospital or medical facility will request a blood and or urine sample for testing at the City's request. If any employee is unconscious or otherwise unable to consent to the sampling procedure, the medical facility will collect a sample of blood and urine for testing at the City's request. However, necessary medical attention will not be delayed in order to collect the specimen.

9. Pre-Employment Drug Screening

To ensure a safe and productive work environment for all employees, all successful applicants for employment in sensitive positions with the City of Clinton shall be required to submit to a pre-employment drug and/or alcohol test prior to being offered employment for any of these positions with the City.

- a. Every vacancy announcement for sensitive positions shall state: "All applicants selected for this position shall be required to submit to a urinalysis and/or blood test to screen for drug/alcohol abuse prior to appointment".
- b. Applicants shall be informed through advertisement and job listings that substance abuse screening is a mandatory part of the employment process. During the interview, an interviewer from Human Resources Department shall explain the City's Policy on Drug/Alcohol Abuse and shall advise the applicant that individuals selected for the position will be required to

successfully complete a drug/alcohol test prior to being offered the position.

- c. The Human Resources Department shall notify the applicant in advance when and where to appear for the screening. The cost of the drug/alcohol screening will be borne by the City. Positive results will be subject automatically to a confirmation test to verify the positive results. Applicants testing positive may request, in writing, within five (5) working days of being notified of the positive results, that a portion of the same sample be tested at the same or another laboratory that is National Institute on Drug Abuse (NIDA) certified, or NIDA equivalent, and approved by the City, at the applicant's expense.
- d. Applicants who test positive shall not be hired. Such applicants may re-apply for employment after twelve months, but shall be subject to a pre-employment examination and substance abuse screening again.
- e. Applicants who refuse to be tested when so requested will not be eligible for employment in any position with the City. Such applicant may re-apply for employment after twelve (12) months, but shall be subject to a pre-employment examination and substance abuse screening again.
- f. Attempts by an applicant to alter or substitute the specimen provided will be deemed a refusal.

10. Screening for Promotions into Sensitive Positions

City employees in non-sensitive positions or who are presently in a sensitive position, and are transferring to another sensitive position or are promoted into sensitive positions, shall also undergo substance abuse testing as a condition of their promotion.

11. Work Performance Impairment of Supervisory Personnel

If, through observing on-the-job behavior, an employee has reason to believe that

his/her supervisor may be impaired by drugs or alcohol, the employee should discuss the matter with the department head and EAP Coordinator. The department head and EAP Coordinator shall contact the City Attorney and Director of Human Resources for assistance in determining the appropriate manner in which to proceed.

12. Random Testing of Sensitive Position Employees

- a. Sensitive position employees within the City shall be randomly tested at least once each calendar year. Employees holding those positions shall be selected from a pool of all eligible members. An acceptable random selection process developed by the City shall be used to generate a random list from those employees to be tested.
- b. A random sample of those employees tested during the year will be selected for re-testing.
- c. After a list of names has been generated, those employees selected shall be advised of their selection by the Director of Human Resources. Those employees shall report to the testing location within two (2) hours of notification for the purpose of submitting a urine/blood sample for substance abuse testing. If the selected employees are unavailable due to authorized leave, they will not be tested at this time but will be placed back into the pool from which the employees are randomly selected for testing.

13. Employee Assistance Program (EAP) services

- a. The City's EAP will provide assistance to all employees and their immediate families when it has been determined by the supervisor, department head, and EAP Coordinator that they are experiencing personal problems, including substance abuse, or work-related problems. An employee may refer himself/herself or be encouraged to seek assistance by a co-worker, spouse, or supervisor.
- b. Employees will be seen privately by professional

counselors who provide several assessment sessions, make treatment referrals as needed, and provide follow-up. EAP records shall not be placed in employees' personnel files. Only authorized persons possessing a signed release from the employee may inquire or obtain information about the employee's involvement in the EAP, except as otherwise stated herein.

- c. Employees may use sick leave, annual leave, compensatory time, or leave without pay for EAP appointments during working hours. However, such appointments must be approved by the department head in advance.
- d. Employees who require extensive inpatient treatment and do not have any accumulated sick leave, annual leave, or compensatory time available may be granted extended leave without pay. The department head and EAP Coordinator, in conjunction with the treating physician, shall determine the length of extended leave to be granted for treatment and rehabilitation.
- e. While the City will provide the basic EAP services, the employee is responsible for arranging and paying for treatment and follow-up. Employees are strongly encouraged to take advantage of available benefits through the EAP or the employee's medical insurance provider prior to suffering performance or behavioral problems which may jeopardize their employment status and benefits.
- f. Upon notification by the City to the employee to seek assistance from the City's EAP, the employee shall contact the EAP Coordinator to make appointment arrangements within twenty-four (24) hours of notification by the City. It shall be the responsibility of the department head to monitor this process for compliance.
- g. Failure to seek assistance may result in disciplinary action, including possible discharge. Prior to returning

to work, the employee must be released by the EAP Coordinator to return to work. The EAP Coordinator may require additional counseling therapy and/or treatment as a condition of returning to work. The employee will be required to complete any additional counseling therapy and/or treatment recommended by the EAP Coordinator.

- h. Failure of the employee to follow or continue with the recommended treatment program of the EAP Coordinator for drug and/or alcohol dependency at any time may result in discharge.

15. Probationary Period

Once an employee has been released by the EAP to return to work (with or without aftercare), the employee shall be deemed to be on probation for a minimum of six (6) months or until successful completion of counseling, if such extends beyond a six (6) month period, wherein the employee shall be drug and/or alcohol tested at random during this time.

16. Returning to Work After Release of EAP

- a. Prior to release from the EAP, the employee shall submit to drug and/or alcohol testing and must successfully pass such testing.
- b. After an employee returns to work, confirmed use, possession or influence of illegal drugs and/or alcohol during the probationary period shall result in further disciplinary action including discharge. It shall be the responsibility of the EAP Coordinator to advise the department head of any employee under care who is not cooperating with the EAP. It shall also be the responsibility of the EAP Coordinator to advise the department head when the employee has successfully completed his/her treatment and requires no further counseling unless he/she voluntarily submits to same.

17. Collection and Testing Facilities

- a. Only licensed independent laboratories and medical contractors that possess State Department of Health and NIDA certification or the equivalent shall be used by the City or its employees to perform drug and alcohol tests or confirmation test.
- b. Follow-up tests will be used to confirm any positive results from initial screens. No tests will be reported "positive" unless a follow-up test has also been reported as positive.
- c. A ledger shall be used by the collection facility to document the name of the employee, the date of the collection, the time of the collection, any prescription or non prescription medication currently or recently used by the employee, names and signatures of witnesses, the signature of the employee, the time the collection is complete, and any remarks by the collection site personnel regarding unusual behavior. The ledger shall be the property of the City of Clinton. However, it shall be the responsibility of collection site personnel to ensure the confidentiality of the ledger and that it is kept in a safe location at the collection site.

Further, only certain collection site personnel, the EAP Coordinator, the Director of Human Resources, and the Office of the Mayor shall have access to said ledger.

d. Collection Site

1. The collection site is a place where individuals present themselves for the purpose of providing urine/blood specimens to be analyzed for drug/alcohol abuse. The site must possess all necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and, if necessary, transportation (shipping)

of specimens to a testing laboratory.

2. Procedures must provide for the collection site to be secure. Chain of custody forms must be properly executed by authorized collection site personnel upon receipt of specimens. The handling and transportation of urine/blood specimens from one authorized individual or place to another must always be accomplished through the use of appropriate chain of custody procedures. No unauthorized personnel shall be permitted in any part of the collection site where urine/blood specimens are collected or stored.

e. Collection Procedures for Specimens

Procedures for providing specimens must allow individual privacy unless the agency has reason to believe that a particular individual may alter or substitute the specimen to be provided. Agencies which are authorized to collect specimens must take precautions to ensure that said specimens have not been adulterated or diluted during the collection procedure and that all information on the specimen bottle and in the ledger can be identified as belonging to a given individual.

f. Collection Control

Collection site personnel shall always have the container or specimen bottle within sight before and after the individual has urinated. The containers shall be tightly capped, properly sealed, and labeled. A chain of custody form shall be utilized for maintaining control and accountability from point of collection to final disposition of specimens. With each transfer of possession, the chain of custody form will be dated, signed by the individual releasing the specimen, signed by the individual accepting the specimen, and the

purpose for transferring possession noted. Every effort should be made to minimize the number of persons handling specimens.

g. **Intralaboratory Chain of Custody**

Procedures shall be used by the laboratory to maintain control and accountability from the receipt of specimens until testing is completed, results reported, and while specimens are in storage.

h. **Initial Test & Drugs for Which an Employee Might be Tested**

The initial test shall use an immunoassay technique which meets the requirement of the United States Food and Drug Administration for commercial distribution. (At this time Enzyme Immunoassay Technique (EMIT) is the only authorized method).

A drug/alcohol screen conducted in accordance with the City's Drug/Alcohol Abuse Policy may include an analysis of substances which could impair an employee's ability to safely and effectively perform the duties of his/her job, including the following:

Alcohol, Amphetamines, Barbiturates, Benzodiazepines, cocaine, Marijuana, Opiates, Phencyclidine (PCP) , Methaqualone

Cutoff Levels for Routine Screening

Cutoff levels are listed in billions of a gram (nanogram) per milliliter of urine (please see following examples).

Initial Test Cutoff Levels (NG/ML)	
Marijuana Metabolites	100
Cocaine Metabolites	300
Opiate Metabolites	300*
Phencyclidine	25

Amphetamines 1,000

*25 NGIML if immunoassay specific for free morphine.

	Confirmation Test Cutoff Levels (NGIML)
Marijuana Metabolite ¹	15
Cocaine Metabolites	150
Opiates:	
Morphine	300
Codeine	300
Phencyclidine	25
Amphetamines:	
Amphetamine	500
Methamphetamine	500
Delta-9-tetrahydrocannabinol-9-carboxylic acid.	
Benzoylecgonine.	

- j. Procedures utilized for the collection, retention, handling, testing, storage, and chain of custody of specimens shall also comply with the National Institute on Drug Abuse (NIDA) or the equivalent guidelines.

18. **Reporting of Test Results**

A laboratory shall disclose to the employer a written test result report within five (5) working days after the test.

All laboratory reports of a test result shall, at a minimum, state:

- a. The name and address of the laboratory that performed the test and the positive identification of the person tested.
- b. Any positive confirmed drug and alcohol test results on a specimen which tested positive on an initial test, or a negative drug and alcohol test result on a specimen; however, such reports should not make reference to

initial or confirmatory tests when reporting positive or negative results.

- c. A list of the drugs for which the employee was tested.
- d. The type of tests conducted for both initial and confirmation tests and the cutoff levels for the test.
- e. The report shall not disclose the presence or absence of any physical or mental condition or any drug other than the specific drug and its metabolites that the City requests to be identified.

19. Confirmatory Test

A positive presumptive result on any initial drug/alcohol test will be confirmed by using a second analytical procedure used to identify the presence of a specific drug or metabolite in the specimen. The confirmation test must be different in technique and chemical principle from that of the initial test procedure to ensure reliability and accuracy. The same sample used in the initial test shall be used for confirmation testing.

Every specimen that produces a positive confirmed result shall be preserved in a frozen state by the certified laboratory that conducts the confirmation test for a period of ninety (90) days from the time the results of the positive confirmed test are mailed or otherwise delivered to the City. During this period, the employee or applicant who has provided the specimen shall be permitted by the City to have a portion of the specimen retested, at the employee's expense, at a laboratory certified by the State Department of Health and the National Institute on Drug abuse, or NIDA equivalent chosen by the employee. The NIDA laboratory that performed the test for the City shall be responsible for the transfer of the portion of specimen to be retested, and for the integrity of the chain of custody during such transfer. Within five (5) working days after receipt of a positive confirmed test result report from the testing laboratory, the City shall, in writing, inform the employee of such positive test result and inform the employee in writing of the consequences of such a report and the options available to him/her. An employee may request and receive from the City a copy of the test result report.

Within ten (10) working days after receiving notice of a positive confirmed test result, the employee may submit information to the City explaining the test results, and why the results do not constitute a violation of the City's policy. If an employee's explanation of the positive test results is not satisfactory to the City, a written explanation submitted by the City as to why the employee's explanation is unsatisfactory, along with the report of positive test results, shall be made a part of the employee's medical and personnel records.

20. **Criminal Prosecution**

The City reserves the right to prosecute any employee who distributes, dispenses, transfers or uses any illegal drug on or in city property. The results of random drug-screens should not be used in criminal prosecutions without the employee's written consent.

21. **Sensitive Positions**

The following is a list of sensitive positions subject to random drug/alcohol screening:

- a. All positions within the police department.
- b. All non-clerical positions within the fire department
- c. All persons who operate any city owned motor vehicle and/or motorized construction equipment

22. **Not Initially listed in Sensitive Positions**

Any person not having been tested for drug or alcohol use after the passage of this policy and not initially listed as a person in a sensitive position shall not operate any City owned motorized vehicle until successfully completing a drug and/or alcohol screening.

23. Confidentiality of Test Results

All information, interviews, reports, statements, memoranda, and test results, written or otherwise, received by the City through its drug and alcohol testing program are confidential communications and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in accordance with state law. Any information obtained by the City pursuant to this policy shall be the property of the City. The City shall not release to any person other than the employee or job applicant, the department head, the Director of Human Resources, or the office of Mayor information related to drug and alcohol test results unless:

- a. The employee or job applicant has expressly, in writing, granted permission for the City to release such information.
- b. It is necessary to introduce a positive confirmed test result into an administrative hearing under applicable state or local law, or a judicial proceeding, provided that such information is relevant to the hearing or proceeding, or the information must be disclosed to federal or state agency or other unit of the state or United States Government as required under law, regulation or order, or in accordance with compliance requirements of a state or federal government contract, or disclosed to a drug/alcohol abuse rehabilitation program for the purpose of evaluation or treatment of an employee.
- c. There is a risk to public health or safety that can be minimized or prevented by the release of such information; provided, however, that unless such risk rises to the level of being life threatening or causing significant property damage, a court order permitting the release shall be obtained prior to the release of the information.

The confidentiality provisions provided for in this section shall not apply to other parts of an employee's or job applicant's personnel or medical files.

24. Medical Review Officer

a. Qualifications and Responsibilities.

The Medical Review Officer (MRO) shall be a licensed physician with qualifications and necessary experience in dealing with substance abuse disorders. The role of the MRO is to review and interpret positive test results obtained through the City Drug/Alcohol Testing Program. The MRO shall examine alternate medical explanations for any positive test result. This examination should include a medical interview with the employee, medical history review, or review of any other relevant biomedical factors. The MRO must review all medical records made available by the tested employee when a confirmed positive test could have resulted from legally prescribed medication. Evidence to justify a positive test result may include but is not limited to (1) a valid prescription or (2) written documentation from the individual's physician verifying a prescribed medication.

b. Positive Test Result

Before rendering a final decision verifying a positive test result, the MRO shall give the individual an opportunity to discuss the test result with him/her.

Following verification of a positive test result, but only after discussing with the employee, the MRO shall advise the EAP Coordinator of the findings, and also the office of Mayor, the Department Head and the Director of Human Resources.

c. Re-Analysis

Should there be questions concerning the accuracy or validity of a positive test result, only the MRO is authorized to order a re-analysis of the original sample. Such retests are authorized to be conducted at the same or another State Department of Health or NIDA

certified laboratory, or NIDA equivalent and must be approved by the City.

d. **Test Result Consistent with Legal Drug Use**

If the MRO determines there is a legitimate medical explanation for the positive test result which is consistent with legal drug use, the MRO shall advise the EAP Coordinator of his/her findings.

e. **Scientifically Insufficient Results**

Based on review of inspection reports, quality control data, multiple samples, and other pertinent results, the MRO may determine that a test result is scientifically insufficient for further action and may declare the test specimen negative. In this event the MRO may request a re-analysis of the original sample, before making this decision. The MRO may request that the re-analysis be performed by the same laboratory or that a portion of the specimen used for testing be sent for re-analysis to an alternate State Department of Health, and NIDA certified or NIDA equivalent, laboratory. The laboratory shall assist in this review process as requested by the MRO and the City.

25. **Statistical Information**

The City shall designate its Director of Human Resources to collect and complete random statistical data for reporting the number of:

1. Random tests, reasonable suspicion tests, post accident tests, confirmation tests, and applicant tests administered.
2. Positive test results.
3. Voluntary drug/alcohol counseling referrals.
4. Involuntary drug/alcohol counseling referrals.

5. Termination or denial of employment offers resulting from alteration of specimens.
6. Termination or denial of employment offers resulting from failure to complete EAP program.
7. Employees who successfully complete EAP.27.

Notification to Federal Agencies

Whenever applicable, and within ten (10) days after receiving notification, the City shall notify such federal agencies as the Department of Housing and Urban Development (HUD) and Department of Health and Human Services (DHHS) of any drug convictions involving City employees. For further information regarding compliance with federal regulations, please refer to Section II-6

26. **Changes or Modifications**

The City of Clinton reserves the right to change or modify the provisions of this policy and testing program at any time in the future with approval of the Board of Aldermen and thirty (30) days written notice to all employees.

27. **Effective Date**

The provision of this policy shall be in effect as stated from and after _____, 1994.

**DRUG/ALCOHOL ABUSE POLICY
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INTRODUCTION

Section II of the City of Clinton (City) Policy on Drug/Alcohol Abuse was developed mainly for City department heads, and division supervisors to use as a guide in implementing the policy. City department heads and division supervisors shall receive training on identifying and handling substance abuse problems in the workplace. The City will provide education on substance abuse to all City employees.

SUPERVISORY GUIDELINES AND PROCEDURES FOR IMPLEMENTING DRUG AND ALCOHOL TESTING

Because the use of illegal drugs or the abuse of legal drugs or intoxicants can impair an employee's abilities, his/her job performance may be affected and/or behavioral problems may develop. Department heads and/or designated supervisors are not expected to be experts concerning substance abuse, but are expected to manage the performance of subordinates. By monitoring work performance, department heads and/or designated supervisors will be in the best position to assist employees and minimize the effects of substance abuse in the workplace.

REASONABLE SUSPICION DRUG AND ALCOHOL TESTING

Reasonable suspicion drug and alcohol testing means drug and alcohol testing based on a belief that an employee is using or has used drugs in violation of the City's Policy on Drug/Alcohol Abuse drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience, and may be based upon, among other things:

- a. Observable phenomena, such as direct observation of drug/alcohol use and/or the physical symptoms or manifestations of being under the influence of a drug or alcohol.
- b. Abnormal conduct or erratic behavior while at work, absenteeism, tardiness or deterioration in work performance.
- c. A report of drug/alcohol use provided by reliable and credible sources and which has been independently corroborated.

Documentation

- a. Observe and take written notes regarding: (i) the observable behavior which has led the supervisor to conclude that the employee's work performance is not meeting the standard set for the position; and (ii) why he/she has concluded that the employee might be affected by drugs or alcohol. The supervisor must be sure that his/her grounds for suspecting substance abuse are reasonable and well documented.
- b. When circumstances permit, the supervisor shall ask the governing division manager or department head or another supervisor to observe the employee's work performance/behavior.
- c. Under extreme circumstances, where it appears that an impaired employee might injure himself/herself or others, or might cause damage to property if permitted to continue working, the supervisor may ask the employee to leave the work station and/or may assign him/her to nonhazardous work until he/she can discuss the situation with the department head and the EAP Coordinator.
- d. Notify the department head and EAP Coordinator concerning his/her observations of the employee's work and discuss the circumstances with them. This discussion should include consideration as to why he/she believes that drugs and or alcohol may be involved.

NO DRUG AND ALCOHOL TESTING MAY BE INITIATED BY A SUPERVISOR WITHOUT AUTHORIZATION FROM THE DEPARTMENT HEAD AND THE EMPLOYEE ASSISTANCE PROGRAM COORDINATOR.

- e. All aspects of the observation, documentation, and assessment process must be handled confidentially. Whenever possible, any discussions with the employee concerning this matter should be conducted in private. The supervisor, department head, and EAP Coordinator are responsible for ensuring that only individuals with a

need to know have access to any information about the employee's work performance and any subsequent discipline or drug/alcohol testing.

- f. If the supervisor has reason to believe that an employee has illegal drugs, paraphernalia or alcohol in or on City property (including lockers, desks, or City vehicles), he/she should consult the department head and the EAP Coordinator immediately to arrange for an inspection or search of the City property by a certified police officer of the City of Clinton Police Department. No searches may be conducted, however, by unauthorized personnel, or without receiving permission from the department head, EAP Coordinator, and the City Attorney who shall make a determination as to whether a search warrant is necessary.

If the supervisor, department head and the EAP Coordinator agree that the employee should be medically examined and given a drug and/or alcohol test, then the following action shall be taken:

2. Testing Procedure

- a. The department head shall advise the employee that he/she is suspected of being impaired. He/she shall relay the observable behavioral and physical signs which led to this conclusion and ask the employee if there is any medical condition or prescribed medication which may be causing the behavior/condition or whether the employee has any other explanation for his/her work performance.

When confronted, an employee may seek to excuse poor job performance by claiming to be sick or may express a wish to go home or see a personal physician. In such cases, the supervisor, department head, and EAP Coordinator shall meet with the employee to discuss any apparent actions of the employee that would indicate their inability to remain at the workplace without endangering themselves, their co-workers, or the public,

and decide if the employee should see a physician, be taken home, or allowed to remain at work.

- b. If the supervisor, department head, and EAP Coordinator determine that the employee should be referred for a medical evaluation, including substance screening, then the EAP Coordinator should make the arrangements for the procedure with the medical contractor.

The supervisor or another authorized City official shall accompany the employee to the medical facility, but he/she may not be present when the drug/alcohol screen is performed.

During the medical evaluation, the employee shall be placed on administrative leave with pay pending the results of the examination and screening.

- c. If the employee refuses to be medically evaluated or refuses to submit to drug and/or alcohol testing, the employee is to be advised that refusal constitutes insubordination and is grounds for discipline, up to and including termination of employment. The employee shall then be directed to undergo the medical evaluation and screening and, if he/she refuses again, the supervisor in conjunction with the department head and EAP Coordinator, shall collectively decide on the appropriate course to take. (See Section II 8).
- d. The EAP Coordinator shall notify the medical facility that a determination has been made for a City employee to undergo medical evaluation and screening for substance abuse. The supervisor or authorized City official should remain with the employee at the facility. However, all aspects of the medical examination and drug/alcohol screening shall be conducted privately and not in the presence of anyone else except authorized collection site personnel.
- e. During or after regular operation hours, Monday

through Friday, weekends, or on holidays, medical evaluations shall be conducted at a location where proper collection procedures are followed as outlined in this policy. The specific location shall be designated by the City.

- f. Following the medical evaluation and pending receipt of drug test results, arrangements shall be made for the employee to be transported home, if possible, by a family member, or by his/her supervisor.
- g. For safety reasons, the employee should be encouraged not to operate any motor vehicle, including his/her personal vehicle, unless cleared to do so by the examining physician.
- h. At the discretion of the department head and EAP Coordinator, and in conjunction with their recommendation of the medical examiner, the supervisor shall advise the employee to return to work on the next regularly scheduled work day or advise the employee that he/she is on administrative leave with pay pending results of the examination.
- i. In the case of a positive result, the employee may request the opportunity to have a portion of the same urine or blood sample tested at another National Institute on Drug Abuse (NIDA) certified, or NIDA equivalent laboratory at his/her own expense, in accordance with the City's Drug/Alcohol Abuse Policy.
- j. Should the EAP Coordinator be unavailable due to vacation, illness or otherwise, the Mayor shall have the authority to authorize the individual drug and or alcohol testing procedure.

3. **Administrative Resolution**

- a. The testing site conducting the evaluation of the employee shall relay the screening results to the Medical Review Officer (MRO) in a confidential manner. The

MRO shall advise the EAP Coordinator on the likelihood of the job performance problem being attributable to substance abuse.

- b. After determination of whether the job performance problem is likely attributable to substance abuse, the supervisor, in conjunction with the department head and the EAP Coordinator shall proceed with disciplinary measures according to the provisions of this policy for discipline (please refer to Section II-6). Together the three of them may also determine whether interim or future leave, including leave to cover extensive inpatient care and/or outpatient treatment, is necessary.
- c. In cases of drug/alcohol abuse that do not result in termination, it is appropriate for the supervisor to suggest that the employee seek professional assistance in resolving any problems from the EAP provided by the City. Although rehabilitation efforts will be strongly encouraged, participation in the EAP shall not serve as protection against the normal disciplinary process.
- d. If involvement in a treatment program is considered an appropriate option, the employee may be asked to sign a treatment agreement wherein the employee agrees to participate in treatment and permit the treating facility to release medical information relevant to the employee's participation in treatment, to the City. In turn, the supervisor may be asked to relay information to the treatment facility concerning the employee's continuing work performance following return to work.
- e. Employees entering a drug/alcohol treatment program shall be tested for drugs and/or alcohol according to the provisions of the program. Employees who fail to remain substance abuse free, or fail to complete their treatment program, shall be subject to the full range of disciplinary action, up to and including termination of employment.
- f. If the impaired work performance is not attributable to

substance abuse but to some other medical condition, the physician will notify the EAP Coordinator and the department head will work with the supervisor to determine whether the employee may return to work while the condition is being corrected.

- g. Only medical information considered relevant to an employee's work performance will be released to the City by a physician.

4. Findings of Drug/Alcohol Use

An employee may be found in violation of the City's Policy on Drug/Alcohol Abuse by:

- 1. A positive test result confirmed by a second test.
- 2. Voluntary admission by an employee.

5. Mandatory Administrative Action

The City shall refer an employee who tests positive, voluntarily admits or is convicted of illegal drug and/or alcohol use to the EAP Coordinator. If the employee occupies a sensitive position, the employee shall immediately be removed from that position, and placed in a non-sensitive position if one is available as recommended by the department head and EAP Coordinator. At the discretion of the City and as part of an EAP recommendation, an employee may be allowed to return to duty in a sensitive position if the employee's return would not endanger public health or safety.

6. Range of Disciplinary Action

Disciplinary action taken against an employee may include a full range of disciplinary action, up to and including termination of employment. The severity of the action chosen will depend on the circumstances of each case.

Such disciplinary action may include any of the following measures. In cases involving criminal conviction for violation of any drug statute, the disciplinary action shall be assessed against the employee within

thirty (30) days from date of conviction.

1. Written reprimand
2. Enforced leave
3. Suspension without pay
4. Termination of employment

7. **Initiation of Mandatory Termination**

The City of Clinton shall initiate action to terminate an employee's employment for:

1. Refusal to obtain counseling or rehabilitation through the EAP as required by Section I 15 of this policy.
2. Failure to pass a second drug/alcohol test after a confirmed first finding of such use and counseling or rehabilitation through the EAP as required by Section I-7 of this policy.

8. **Refusal to Take Drug/Alcohol Test When Required**

An employee who refuses to be tested when so directed, will be subject to the full range of disciplinary actions, up to and including termination of employment. Attempts to alter or substitute the specimen provided will be deemed a refusal of the drug and/or alcohol test when required.

9. **Voluntary Admission**

The decision to discipline an employee who voluntarily admits to drug/alcohol abuse will be made by the City on a case by case basis. Depending on the facts and circumstances, an employee may be subjected to the full range of disciplinary action, up to and including termination of employment. Although an absolute bar to discipline cannot be provided, the city, in determining whether to discipline, shall consider that the employee has come forward voluntarily. In coming forward voluntarily, the employee shall then provide a specimen for a

drug/alcohol test.

10. **Employee's Right to Explain Positive Confirmed Test**

Within ten (10) working days after receiving notice of a positive confirmed test result, the employee may submit information to the City explaining the test results, and why the results do not constitute a violation of the City's policy.

If the employee's explanation of the positive test results is not satisfactory to the City, a written explanation submitted by the City as to why the employee's explanation is unsatisfactory, along with the report of positive results, shall be made a part of the employee's medical and personnel records.

11. **Changes or Modifications**

The City of Clinton reserves the right to change or modify the provisions of this policy and testing program at any time in the future with the approval of the Board of Aldermen and with thirty (30) days written notice to all employees.

12. **Effective Date**

The provisions of the policy shall be in effect as stated from and after _____, 1994.

**CITY OF CLINTON
STATE OF MISSISSIPPI**

**DRUG/ALCOHOL TESTING ACKNOWLEDGEMENT
AND CONSENT AGREEMENT**

This form must be signed by all employees in a sensitive position covered by this policy and is intended to allow release of drug test results and any medical information necessary for implementation of this policy.

I understand and agree that, as a condition of employment, I may be subjected to drug and/or alcohol testing procedures through urine samples and/or blood samples, as allowed or required by law. By my signature below, I agree to submit to these tests and further agree that the testing agency/laboratory is authorized by me to provide the results of the test to the Medical Review officer. I further authorize and request my physicians) and/or hospitals) or clinic(s) to release to the Medical Review officer or other designated agents required or permitted by law, any and all information in their possession or control which is relevant to the presence of drugs or alcohol in my bodily systems. There will be no other disclosure of such information except as may be required or permitted by law or as authorized by me.

I acknowledge receiving notice of the establishment of this employee drug/alcohol testing program and all such procedures established for the purpose of implementing such program. I understand that I may be selected for random screening by urinalysis and/or blood testing for the presence of controlled substances. I further understand that blood samples may be drawn and/or other test performed to test or confirm the presence of controlled substances or the results of other tests. I understand that a confirmed positive result of such testing or refusal to submit to testing may result in disciplinary action up to and including dismissal.

I have read the notice announcing the establishment of the City of Clinton's employee drug/alcohol testing program and the policy on drug/alcohol abuse.

Signed, this the _____ day of _____, 1994.

Employee's Signature

(Print Employee's Name)

Witness's Signature

(Print Witness's Name)

**CITY OF CLINTON
STATE OF MISSISSIPPI
RANDOM DRUG/ALCOHOL TESTING SELECTION FORM**

This form will be used in cases where a City employee has been randomly selected to undergo drug/alcohol testing in accordance with the provisions of the City of Clinton Policy on Drug/Alcohol Abuse.

TO EMPLOYEE: _____ DATE: _____

FROM: _____ TIME: _____

You have been randomly selected to participate in the substance abuse testing program established by the City's Policy on Drug/Alcohol Abuse.

You are hereby directed to report to _____ immediately, not to exceed two (2) hours from notification time for the purpose of submitting a urine and/or blood sample for substance abuse testing.

You are advised that if (1) you refuse to provide a urine and/or blood sample for substance abuse testing, (2) exceed the allotted reporting time, or (3) tamper with or attempt to adulterate the sample, disciplinary action will be taken against you, up to and including dismissal.

Signed, this the _____ day of _____, 1994.

(Print) SUPERVISORS NAME

SUPERVISORS SIGNATURE

(Print) EMPLOYEES NAME

EMPLOYEES SIGNATURE

EMPLOYEES SOCIAL SECURITY

**CITY OF CLINTON
STATE OF MISSISSIPPI**

**ACKNOWLEDGEMENT PRE-EMPLOYMENT DRUG/ALCOHOL
SCREENING CONSENT FORM**

This form must be signed by all potential city employees prior to their employment with the City of Clinton. It will be used to certify that they acknowledge and consent to pre-employment drug screening.

I, _____, (print your name) hereby voluntarily consent to taking a urine and/or blood sample to be used for drug and/or alcohol screening. I also authorize and give full written permission to the doctor, clinic, hospital or its agents and associates to send this specimen to one or more approved laboratories for screening and/or confirmatory tests. I authorize these results to be given to the City of Clinton, Mississippi or its authorized agent, the contract tester/collector of the City, the authorized laboratories conducting the screening and/or tests, and the Medical Review Officer designated and approved by the City.

I also hereby waive any and all causes of actions and damages that I may have against the City or its agents or assigns for the tests and procedure of testing except for gross negligence and for intentional wrong doing.

I have been informed and understand that I retain the express right to terminate the taking of the urine and/or blood samples at any time I so desire and to leave the room without further delay.

I have been informed and understand that the test results will be released to the City of Clinton, Mississippi, solely for the purpose of consideration for employment. I may revoke this authorization at any time (except as to the extent required by law).

Signed this the _____ day of _____, 1994.

(Print) Witness's Name

(Print) Applicant's Name

Witness's Signature

Applicant's Signature

CITY OF CLINTON
STATE OF MISSISSIPPI

REASONABLE SUSPICION
DRUG/ALCOHOL TESTING FORM

This form will be used in cases where a City employee has been selected for drug/alcohol testing on the basis of reasonable suspicion.

TO EMPLOYEE: _____ DATE: _____

FROM: _____ TIME: _____

Based on the criterion contained within the City of Clinton's Policy on Drug/Alcohol Abuse, there exists a "reasonable suspicion" that you may be involved in the use of illegal drugs or alcohol.

As a result of this, you are hereby ordered to submit a urine and/or blood sample for substance abuse testing. The results of this substance abuse testing is for administrative purposes only and will not be used against you in any criminal proceedings unless required to do so by law.

You are advised that if you (1) refuse to submit to substance abuse testing, (2) tamper with, or attempt to adulterate the sample, disciplinary action will be taken against you up to and including dismissal.

You are hereby required to report to the following location at the specified time to provide a urine and/or blood sample:

Signed this the _____ day of _____, 19__.

(Print) SUPERVISORS NAME

(Print) EMPLOYEE'S NAME

SUPERVISORS SIGNATURE

EMPLOYEE'S SIGNATURE

**STATE OF MISSISSIPPI
NOTIFICATION OF CURRENTLY USED PRESCRIPTION
AND/OR NON-PRESCRIPTION DRUGS FORM**

This form will be used in cases where a city employee wishes to notify the City of Clinton of prescription and/or non-prescription drugs that he/she is currently using.

I, _____, Social Security Number _____,
a City of Clinton employee, have ingested the following listed prescription and/or
non-prescription drugs since _____, 19__.

Signed this the _____ day of _____, 19__.

EMPLOYEES NAME (PRINT)

EMPLOYEES SIGNATURE

WITNESSES NAME (PRINT)

WITNESSES SIGNATURE