

ARTICLE II DRUG OR ALCOHOL USE**DIVISION 2. TRANSPORTATION REGULATED EMPLOYEE DRUG AND ALCOHOL POLICY****Section A. DEFINITIONS**

As used in this Division, the listed terms shall have the following meaning:

“Alcohol.” The intoxicating agent in a beverage including alcohol, ethyl alcohol or other low molecular weight alcohols.

“Alcohol Use.” The consumption of a beverage, mixture, or preparation, including any medication, containing alcohol. An Alcohol fact sheet outlining the symptoms and health effects of alcohol misuse is included in Section N of this policy.

“Applicant.” Any individual selected through a direct hire process who is not currently in the City's employ and as a condition of employment must meet the applicable conditions of this policy prior to employment.

“CDL.” Commercial Driver License, an employee who performs safety-sensitive functions which requires this licensure to operate equipment and vehicles are subject to Federal Regulations from the U.S. Department of Transportation governing Drug and Alcohol Testing.

“City Premises.” Any and all property, facilities, land, structures, and vehicles owned, leased, used or under the control of the City.

“Collection Site.” A place designated by the City where employees present themselves for the purpose of providing a specimen of their urine or breath to be analyzed for the presence of drugs/alcohol.

“Direct Observed Collection.” The observer is the same gender as the employee. The employee raises his or her shirt, blouse, or dress/skirt, as appropriate, above the waist, and lowers clothing and underpants to show the observer, by turning around, that they do not have a prosthetic device. After it is determined that the employee does not have such a device, the employee may return clothing to its proper position for the observed urination. As the observer, you must watch the urine go from the employee's body into the collection container.

“DOT.” U.S. Department of Transportation.

“Drug.” Any non-food substance, other than alcohol or such over-the-counter pain relievers as aspirin or cold remedies, capable of altering the mood, perception, pain tolerance, sobriety or judgment of the person consuming it.

“EBT.” Evidential Breath Testing Device, a device approved by NHTSA (National Highway Transportation Safety Association) for the evidential testing of breath at the .02 percent and .04 percent alcohol concentrations, placed on NHTSA’s Conforming Products List (CPL) for Evidential Breath Testing Devices and identified on the CPL as conforming with the model specifications available from NHTSA’s Traffic Safety Program.

“5 Panel Drug Testing”:

- Marijuana (THC)
- Cocaine
- Amphetamines
 1. Amphetamine
 2. Methamphetamine
 3. MDMA
 4. MDA
- Opioids
 1. Codeine
 2. Morphine
 3. 6-AM (heroin)
 4. Hydrocodone
 5. Hydromorphone
 6. Oxycodone
 7. Oxymorphone
- Phencyclidine (PCP)

“Illegal/Unauthorized drug.” Any drug which is not legally obtainable under both state and federal laws, any drug which is legally obtainable but has been illegally obtained, and/or is not being used for its prescribed purpose or in the prescribed manner.

“Legal Drug.” Except for Medical Marijuana, any prescribed drug or over-the counter drug which has been legally obtained and is used for the purpose for which it was prescribed or manufactured.

“Medical Marijuana” means marijuana for medical use as authorized by the Missouri Department of Health and Senior Services and the distribution, possession and use of the marijuana are in compliance with all laws and regulations authorized by Article XIV of the Missouri Constitution, titled Medical Cannabis.

“Medical Review Officer” or “MRO.” A licensed physician responsible for receiving and reviewing laboratory results generated by this policy, who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate positive test results together with an employee's history and any other relevant biomedical information.

“Monitored Collection.” The monitor should be the same gender, unless the monitor is a medical professional (nurse, doctor, physician assistant, technologist, or technician, licensed or certified to practice in the jurisdiction). Secure the room being used for the monitored collection so no one else can enter until after the collection has been completed. A monitor does not watch the employee urinate into the collection container. If the monitor hears sounds or makes other observations indicating an attempt to tamper with a specimen, there must be an additional collection under “direct observation.”

“Possession.” Actual or constructive care, custody, control or immediate access to.

“Reasonable Suspicion..” When a supervisor has reason to believe the appearance and/or conduct of an employee are indicative of the use of alcohol, drug(s) (including Medical Marijuana), or a combination thereof.

“Refusal To Test.” (1) failure to appear for a test in specified time frame (excludes pre-employment) (2) once test is underway, failure to remain at the testing site until the process is completed, (3) failure to provide volume of breath or urine without valid medical explanation, (4) failure to undergo a medical examination to verify insufficient volume, (5) failure to permit the observation or monitoring of specimen donation when so required, (6) failure to take an additional test required by the employer or collector, (7) failure to cooperate with any part of the testing process, (8) a drug test result that is verified by the MRO as adulterated or substituted, (9) possess or wear a prosthetic or other device that could be used to interfere with the collection process, (10) failure to sign the certification on Step 2 of the Alcohol Test Form (11) admit to the collector or MRO that you adulterated or substituted the specimen (12) tampering, adulterating, or substituting specimen (13) leaving the scene of an accident without just cause prior to submitting to a test.

“Safety-sensitive.” An employee who is required to hold a commercial driver license (CDL) to operate a commercial vehicle is considered to perform safety-sensitive functions. For Transit employees, it includes operators of revenue vehicles, dispatchers, maintaining transit vehicles and any armed security. This covers any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

“Substance Abuse Professional” or “SAP.” Evaluates employees who have violated a drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up care and aftercare. Must be a licensed physician (M.D. or D.O.) or a licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist, or a drug and alcohol counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC) or certified by: the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC); or by the National Board for Certified Counselors, Inc. and Affiliates/Master Addictions Counselor (NBCC) with knowledge of and clinical experience in the diagnosis and treatment of alcohol/substance abuse related disorders. Requires completion of qualification training and SAP certification per 49 CFR Part 40.

“Transportation Regulated Employees” means all City employees subject to U.S. Department of Transportation’s federally mandated drug and alcohol regulations with respect to the following: (1) are required to hold a commercial driver license (CDL) to operate a commercial motor vehicle and are subject to the rules of the Federal Motor Carrier Safety Administration governing drug and alcohol testing under 49 CFR Part 40; or, (2) are employed to operate a revenue service vehicle at any time, in any revenue service or not, controlling the dispatch or movement of a revenue service vehicle or maintaining a revenue service vehicle and are subject to the rules of the Federal Transit Administration governing drug and alcohol testing under 49 CFR Part 655.

“49 CFR Part 40.” Federal Procedures for Transportation workplace drug testing programs. These rules are available for review in the Human Resource Department.

Section B. IN GENERAL

1. Scope.

The Transportation Regulated Employee Drug and Alcohol Policy applies to all Transportation Regulated Employees of the City, including job applicants, probationary employees, permanent full and part-time and temporary full and part-time.

2. Purpose

It shall be the general policy of the City to prohibit the possession, manufacture, sales, transference, use or ingestion of illegal/unauthorized drugs or the use or ingestion of alcohol, or the unauthorized possession, sale or transference of alcohol, on City premises, while operating City vehicles and equipment, while engaged in the performance of job duties or while otherwise representing the City of Columbia in any capacity and during off-site lunch periods or breaks when an employee is expected to return to work or on call for work.

3. General Policy.

It shall be the general policy of the City to prohibit the possession, manufacture, sales, transference, use or ingestion of illegal/unauthorized drugs or the use or ingestion of alcohol, or the unauthorized possession, sale or transference of alcohol, on City premises, while operating City vehicles and equipment, while engaged in the performance of job duties or while otherwise representing the City of Columbia in any capacity and during off-site lunch periods or breaks when an employee is expected to return to work or on call for work.

4. Condition of Employment.

As a condition of employment, employees of the City of Columbia are expected to fully comply with this policy, to be free from the use of illegal drugs and to abstain from on-duty alcohol use.

5. Questions about the Policy.

Questions about the City's drug and alcohol policy may be directed to either the Human Resources Director at 817-6445, or the designated employer representative at 874-6392.

Section C. PROHIBITED CONDUCT

1. Drugs.

The manufacture, distribution, unlawful dispensing, use, possession or being under the influence of any illegal/ unauthorized drug, while on the City's premises or during working time or during a meal break when an employee is expected to return to work or on call for work is strictly prohibited.

An employee may use and possess a legal drug while on the City's premises or during working time, provided the employee uses the drug in accordance with a physician's or the package instructions, does not distribute the drug to another, and the employee has reported the use of any mood altering or judgment or performance impairing drug to Employee Wellness or his/her immediate supervisor before the beginning of his/her work shift. When an employee has reported the use of a legal drug, Employee Wellness shall notify the employee's supervisor of potential impairing effects. If an employee reports the use of a legal drug to his/her supervisor, the supervisor shall report this information to Employee Wellness. Employee Wellness staff will consult with the City physician on potential impairing effects and notify the supervisor of any potential impairing effects of the drug. It shall be the employee's responsibility to inquire of the prescribing physician or a pharmacist whether or not the prescribed or over-the-counter medication is mood altering or judgment or performance impairing. The City reserves the right to have a physician of its choice determine whether an employee can safely perform their job while using or being under the influence of any legal drug so reported. In addition, the City reserves the right to restrict such employee's work activity or presence on the City premises. Applicable accumulated leave or leave without pay may be granted for time away from work under applicable ordinance provisions.

2. Alcohol.

The use, possession or ingestion of alcohol during working hours, including lunch hours or while on City premises when associated with working hours, is strictly prohibited. However, the possession of alcoholic beverages by employees whose job assignment includes the buying, selling, distributing, dispensing or transferring the beverage is excluded, as is the use of alcohol containing solvent, cleaners and other chemicals for the purpose for which they were manufactured.

3. Impairment.

It is a violation of this policy for employees to report to work, or to enter onto the City premises while being in a condition impaired for work due to effects, symptoms or side effects of alcohol and/or drugs.

4. Conviction Reporting.

a. *General.* As a condition of employment, all employees are required to notify the City of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after the conviction. The failure to report such conviction is a violation of this policy. Within thirty (30) days after receiving notice from an employee of a conviction under this provision, the City will take appropriate action against the employee, up to and including termination, or will require the employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for those purposes in accordance with federal Drug-Free Workplace requirements.

b. *CDL Holders.* Any employees who are required by the City to maintain a commercial driver license in order to perform his/her job, must notify an immediate supervisor of any state, county or municipal violation (other than parking) within thirty (30) days of conviction, and report any license suspension/revocation, cancellation/disqualification or out of service order by the end of the business day after the driver receives notice. The employee is required to complete and submit the CDL conviction form to his/her immediate supervisor who will send the original copy to the Human Resources Department.

Section E. EMPLOYEE ASSISTANCE PROGRAM (EAP)

1. EAP Program.

City shall maintain a contract Employee Assistance Program (EAP) which will provide counseling or referral for drug and alcohol abuse. The City shall provide a list of available resources for drug/alcohol counseling if the employee chooses to seek assistance outside the City's EAP. Applicable accumulated leave or leave without pay may be granted for treatment, counseling or rehabilitation under applicable ordinance provisions. It will be the employee's responsibility to comply with a City request for referral and diagnosis and to cooperate fully with any prescribed therapy.

Rehabilitation is the responsibility of the employee. In cases of mandatory referral to the EAP as part of a disciplinary disposition or in compliance with a federal rule, the City shall require the counseling agency to report to the City: (1) that the employee is attending the mandated counseling; (2) that the employee is arriving on-time to scheduled appointments and is cooperating with the counselor; (3) that the employee has completed counseling or therapy and is released by the counseling provider; and (4) if any medical leave is required.

2. Self Help.

If, prior to any drug or alcohol testing or the occurrence of an event giving rise to a reasonable suspicion of current drug or alcohol use, an employee seeks help to refrain from drug or alcohol use, either by inquiry to the City or entering a counseling or rehabilitation program, then the City will assist the employee in locating and attending a suitable program and exercise care to maintain the confidentiality of the inquiry and program participation.

The employee shall not have his or her job security jeopardized solely because he or she has made a voluntary request for diagnosis and appropriate therapy for alcoholism or drug dependency. However, the City is concerned by those situations where use of alcohol or other drugs affects an employee's job performance, causes a potential safety problem or is detrimental to the City's business, and will take those actions that are required for the good of the City as a whole. Self-referral to a treatment program may not be used as a protection from supervisory actions taken as a result of job performance deficiencies.

The City may also grant the employee an appropriate leave of absence (generally not to exceed twelve weeks) or other reasonable accommodation so the employee can undergo a mutually agreed upon rehabilitation program. To the extent permitted by law, any leave or other accommodation granted pursuant to this policy will, absent extenuating circumstances as determined by the City, be granted only once.

Section F. DRUG AND ALCOHOL TESTING

1. Testing Procedures.

The procedures for collecting breath and urine specimens will be posted at the collection site. All drug tests shall be performed by a laboratory certified under the Department of Health and Human Services, Mandatory Guidelines for Federal Workplace Drug Testing Programs, 53 FR 11970, April 11, 1988, and subsequent amendments thereto.

a. *Specimen Collection Procedure.* The Human Resources Department will instruct applicants to report to the testing site. Employees will be instructed by the supervisor where and when to report for drug and/or alcohol testing. Employees will also be instructed that they must present a photo I.D. at the time of testing. In cases of Reasonable Suspicion Testing, the employee will be transported to the test facility or the City may request a breath or urine specimen collection at the worksite.

The procedures for collecting urine specimens will follow the procedures set out in 49 CFR Part 40 to safeguard the validity of test results, and ensure the integrity and identify of the urine specimen that is produced. Specimens will be sealed and marked at the time of collection in order to maintain an intact chain of custody. The procedure will also allow for individual privacy unless, in the determination of the City, the collector, or the MRO, there is reason to believe that an employee may alter or substitute the specimen. Breath alcohol testing will follow Federal Procedures to ensure accuracy, reliability and confidentiality. All specimens, breath and urine, will be accompanied by the appropriate intact and correctly completed chain of custody form.

If testing under this policy is ever required of an employee who is in need of medical attention, necessary medical attention will not be delayed in order to collect the test specimen. However, such an employee shall promptly, upon request from the City, provide the necessary authorization for obtaining hospital reports and records and any other information at the time the need for medical attention and/or testing arose.

b. *Testing Procedures.*

(i) Drug Testing. Drug testing will be performed on urine samples and will be compliant with federal DOT regulations. The initial test will be performed by the enzyme immunochemical assay method. All specimens identified as a positive test on the initial test will be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques. A specimen will be treated as negative if the result of the initial test or the confirmatory test is negative. The City utilizes the Clinical Reference Laboratory in Lenexa, Kansas for DOT specimen testing.

Urine samples will be split samples so that if the original specimen test is positive, the employee may request the retained sample be tested. This request must be received by the MRO within 72 hours of employee's notice of a positive result. The split sample will be tested at a different DHHS Certified Laboratory. The City may request reimbursement for the cost of the test. If the split sample tests negative, the test will be determined to be negative.

(ii) Alcohol Testing. Alcohol use will be tested using Evidentiary Breath Testing Devices (EBT). Breath Alcohol testing requires the individual to provide a breath sample. Should the initial breath sample have a result of 0.02 percent blood alcohol content or greater, a confirmation test will be conducted within twenty (20) minutes. The confirmation test result takes precedence.

c. *Refusal to Test.* If an employee refuses to be tested or alters or attempts to alter the test sample, then such actions shall be treated as a positive test in addition to being a violation of this policy.

Behaviors constituting a test refusal: (1) failure to appear for a test in specified time frame (excludes pre-employment) (2) once test is underway, failure to remain at the testing site until the process is completed, (3) failure to provide volume of breath or urine without valid medical explanation, (4) failure to undergo a medical examination to verify insufficient volume, (5) failure to permit the observation or monitoring of specimen donation when so required, (6) failure to take an additional test required by the employer or collector, (7) failure to cooperate with any part of the testing process, (8) a drug test result that is verified by the MRO as adulterated or substituted, (9) possess or wear a prosthetic or other device that could be used to interfere with the collection process, (10) failure to sign the certification on Step 2 of the Alcohol Test Form (11) admit to the collector or MRO that you adulterated or substituted the specimen (12) tampering, adulterating, or substituting specimen (13) leaving the scene of an accident without just cause prior to submitting to a test.

2. Test Results.

a. *Drug Test Results.* The MRO will review positive drug test results with the applicant or employee before reporting them to the City. The substances for which the test was positive will be identified. The MRO may advise the City of a positive test result without having communicated with the applicant or employee about the test results if the applicant or employee expressly declines the opportunity to discuss the results of the test, or if the applicant or employee cannot be reached after reasonable efforts, per 49 CFR Part 40 by either the MRO or the City's representative.

If the MRO determines there is a legitimate medical explanation for the positive test result, the MRO will report the test result to the City as negative.

The MRO may direct the City to conduct an immediate recollection of a negative dilute specimen under direct observation (because the creatinine concentration is at or lower than 2mg/dL to 5mg/dL). Otherwise, (if the creatinine concentration is greater than 5mg/dL) the City will consider a dilute negative as a negative result.

b. *Alcohol Test Results.* If an alcohol breath test results in a reading of 0.02 - 0.039 percent blood alcohol content, the individual shall not return to duty but shall be taken off duty and not returned to work for at least eight (8) hours, and must test below .02 percent alcohol concentration before returning to work. If an alcohol breath test results in a reading of 0.04 percent blood alcohol content or greater, in addition to the above the employee must meet with a SAP. This person shall determine when the employee may return to work.

c. *Confidentiality.* The results of a positive test shall be kept confidential from the general City work force and public, except that members of management may be made aware that the employee's drug test was positive. The results may be known to the test facility, the MRO, City's Designated Employer Representative, SAP and the employee. The City may use the results to determine the appropriate response to employee drug and/or alcohol use and to support its disciplinary or other actions or to defend the City in a Court or Administrative hearing.

The MRO, SAP and the City shall not release the individual test result of an employee to any unauthorized party without first obtaining written authorization from the tested individual or as required by law.

The employee may, upon written request, obtain copies of any records pertaining to the employee's use of prohibited drugs, including records pertaining to the employee's drug test. There shall be no charge for these records.

3. Actions Taken in Response to Test Results.

a. *Refusals.* An employee who refuses to be tested as provided for herein will be treated as having a positive test result and may be subject to disciplinary action up to and including termination. The employee shall be removed from duty, referred to a SAP, and will not be allowed to return to work until a Return to Duty process has been completed. Applicable accumulated leave or leave without pay may be granted for time away from work, treatment, counseling or rehabilitation under applicable ordinance provisions.

b. *Drug Tests.* An employee whose drug test result is reported as positive shall be removed from duty, referred to a SAP and shall be subject to disciplinary action up to and including dismissal. Employees will not be allowed to return to work in his or her position until a Return to Duty process has been completed. Applicable accumulated leave or leave without pay may be granted for time away from work, treatment, counseling or rehabilitation under applicable ordinance provisions.

c. *Alcohol Tests.*

i. *Between .02 and .039 BAC.* An employee whose breath test results in a reading of 0.02 – 0.039 percent breath alcohol content shall be immediately removed from duty and not allowed to return to work for at least eight (8) hours. If the employee is permitted to return to work after a positive result under this section, then he or she shall be tested again after at least eight (8) hours and must take a breath alcohol test with a result less than .02 percent blood alcohol concentration before returning to duty. An employee who has tested positive under this subsection shall be referred to a SAP for evaluation and may be subject to disciplinary actions up to and including dismissal.

ii. *At .04 or Above BAC.* An employee whose breath test results in a reading of 0.04 percent blood alcohol content or greater shall be immediately removed from duty. The employee will not be allowed to return to work until a Return to Duty process has been completed. Accumulated leave or leave without pay may be granted for time away from work, treatment, counseling or rehabilitation. Applicable accumulated leave or leave without pay may be granted for time away from work, treatment, counseling or rehabilitation under applicable ordinance provisions.

d. *Previous Positive Result.* An employee whose drug test result is reported to the City as positive or whose breath result is reported to the City as positive or whose breath test is 0.04 percent breath alcohol content or greater and who has previously had a positive drug test or breath alcohol test or who has had a previous mandatory referral for drug and alcohol counseling as required of these rules, will be terminated in accordance with 19-206.

e. *Rehabilitation Program Compliance.* If an employee fails to immediately begin an approved rehabilitation program and remain compliant with a rehabilitation agreement, successfully complete the program, participate in required or recommended after-care or otherwise fail to follow directives or instructions regarding the program, then the employee is in violation of this policy and may be subject to disciplinary action up to and including dismissal.

f. *Post Rehabilitation.* An employee who tests positive for illegal drugs or alcohol use of .04 or greater cannot return to work until he/she meets the following conditions:

- i. Successfully completes a City approved rehabilitation program or completes the initial phase of such program and continues to participate in any program after care required by the rehabilitation facility doctor and/or counselor.
- ii. No further use of a controlled substance or prohibited use of alcohol as indicated by a negative drug/alcohol Return to Duty test result at the time of release or before resuming work duties.
- iii. Obtains a full written release and recommendation to return to duty from the treatment facility doctor and/or counselor.
- iv. Agrees to be subject to post-rehabilitation unannounced follow-up testing as determined by the SAP for a minimum of 1 year, with at least 6 unannounced tests in the first year, and continue in the program for up to 5 years as deemed necessary by the SAP.

Section G. FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION EMPLOYEES

1. General.

In addition to the general policies provided herein, all employees who perform safety-sensitive duties requiring a Commercial Driver's License (CDL), except City Transit employees, shall be subject to the rules of the Federal Motor Carrier Safety Administration regarding drug and alcohol testing, 49 CFR Part 382. These rules are available for review in the Human Resources Department. The prohibited substances for which employees are tested under the rules are: alcohol, marijuana, cocaine, opioids, amphetamines, heroin, and phencyclidine. A summary of those rules are included in this policy.

2. Prohibitions.

Employees required to have a CDL for their job, except City Transit employees, are subject to the following prohibitions:

- a. No driver shall report to duty or remain on duty with a breath alcohol concentration of 0.02 percent or greater.
- b. No driver shall possess or use alcohol, including any medication with an alcohol component, while on duty.
- c. No driver shall be allowed to drive within four hours of using alcohol.
- d. A driver involved in an accident which requires an alcohol test may not use any alcohol until after the test is completed or eight hours has elapsed.
- e. No driver shall refuse to submit to any required drug or alcohol test required under these rules.

Refusal To Test includes any one of the following: (1) failure to appear for a test in specified time frame (excludes pre-employment) (2) once test is underway, failure to remain at the testing site until the process is completed, (3) failure to provide volume of breath or urine without valid medical explanation, (4) failure to undergo a medical examination to verify insufficient volume, (5) failure to permit the observation or monitoring of specimen donation when so required, (6) failure to take an additional test required by the employer or collector, (7) failure to cooperate with any part of the testing process, (8) a drug test result that is verified by the MRO as adulterated or substituted, (9) possess or wear a prosthetic or other device that could be used to interfere with the collection process, (10) failure to sign the certification on Step 2 of the Alcohol Test Form (11) admit to the collector or MRO that you adulterated or substituted the specimen (12) tampering, adulterating, or substituting specimen (13) leaving the scene of an accident without just cause prior to submitting to a test.

- f. No driver shall report for duty or remain on duty when using any drugs except those a physician has advised that the driver may use which will not adversely affect the driver's ability to operate a commercial motor vehicle.

3. Circumstances for Testing

Drivers covered under this Section are subject to the following drug and or alcohol tests:

- a. *Pre-employment Testing.* Pre-employment testing for controlled substances.

- b. *Post-Accident Testing.* Post-accident drug and alcohol tests will be conducted if the accident results in a death or when the driver was cited by the police if the accident involved: bodily injury to any person which requires medical treatment away from the scene or a vehicle incurs disabling damage and requires towing from the accident. Drivers will be subject to a drug test up to 32 hours after the accident. A supervisor shall prepare and maintain on file a record stating the reasons testing was not administered if this time limit is not met. Drivers are subject to an alcohol test within two hours of the accident but may be tested up to eight hours after the qualifying accident if such delay is required. A supervisor shall prepare and maintain on file a record stating the reasons the test was not administered with in the two hour limit. Records of post accidents tests shall be submitted to the Federal Motor Carrier Safety Administration upon request.

c. *Random Testing.* Drivers are required to participate in random drug and alcohol test pools. The selection of drivers for random testing is accomplished by a computer-based random number generator which matches an employee's identification number; ensuring drivers shall have an equal chance of being tested each time selections are made. Random tests are unannounced and spread throughout the year. Once the employee is notified of test, he/she is to cease safety-sensitive functions and proceed to testing site as soon as possible. Alcohol testing may occur just before, during, or just after performing safety-sensitive duties, drug testing may occur anytime while on duty. The percentage of employees tested in the pool shall be determined annually by the FMCSA Administrator.

d. *Reasonable Suspicion Testing.* Drivers are subject to drug and/or alcohol testing when a trained supervisor observes behavior supporting a reasonable suspicion of alcohol or drug use. The supervisor's determination that reasonable suspicion exists must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. Alcohol testing may occur just before, during or just after performing a safety-sensitive function, drug testing may occur at any time while on duty.

e. *Return to Duty Testing.* Before returning to safety-sensitive duty after being excluded because of drug or alcohol use, or a refusal to test, a driver must take an alcohol test resulting in less than .02 percent alcohol concentration and/or a verified negative drug screen. Return to Duty testing will be a direct observed collection.

f. *Follow-up Testing.* A driver referred to a SAP and subject to assistance or rehabilitation for drug or alcohol use shall be subject to such follow-up testing as directed by a SAP. Follow up testing shall include a minimum of 6 unannounced tests within the first 12 months and may extend up to 60 months from the date of the driver's return to duty. Follow up testing will be under a direct observed collection.

g. *Refusal to Test.* Refusal to test, as defined in this policy, shall be treated as a positive test. If a driver asserts an inability to provide a urine or breath specimen, and a physician concludes in writing that such an inability has no medical cause, the inability to provide such specimens shall be considered a refusal, thus a positive test. Drivers must be readily available for alcohol testing immediately before, during or just after performing safety-sensitive duties, testing for prohibited substances may be at any time.

4. Duties of Supervisors

Supervisors have the following specific duties:

a. Supervisors must produce drivers for post-accident drug testing within two hours, up to thirty two hours, and alcohol testing within two hours, up to eight hours, following the accident or document in writing why the driver was not tested. The driver may be given necessary medical treatment and if such treatment prevents normal drug or alcohol testing, the supervisor shall document and maintain a record stating the reasons testing was not completed and immediately inform Human Resources.

- b. Whenever drug or alcohol tests are required under these rules, supervisors must produce the driver for these tests, and when current impairment is reasonably suspected, the supervisor shall not allow the employee to drive.
- c. Observations supporting a supervisor's reasonable suspicion of drug or alcohol use must be made just before, during or just after the employee performs safety-sensitive work. These observations must be reduced to writing within 24 hours of the observation.

5. FMCSA Clearinghouse

a. *General.* The City and all employees covered by this Section are federally mandated to comply with the reporting requirements of the FMCSA Clearinghouse under 49 CFR Part 382. This includes the City's obligation to perform pre-employment queries for all applicants and annual queries for all employees.

b. *Consent to Clearinghouse Reports.* Employees subject to the FMCSA Clearinghouse shall provide the necessary consent for the City to perform clearinghouse queries, including electronic authorization for all full queries. If an employee fails to provide consent as required under this section, then the employee is unable to perform safety-sensitive functions under federal law and the employee will be removed from duty. The refusal to provide consent shall also be considered a violation under this policy and the employee may be subject to disciplinary action, including termination.

c. *Information Reported.* The following personal information is collected and maintained under 49 CFR Part 382 shall be reported to the Clearinghouse:

- i. A verified positive, adulterated, or substituted drug test;
- ii. An alcohol confirmation test with a blood alcohol concentration of 0.04 or higher;
- iii. A refusal, as defined in this policy, to submit to any drug or alcohol test of 49 CFR Part 382;
- iv. The City's report of "actual knowledge", as defined under 49 CFR § 382.107:
 - (A) On-duty alcohol use pursuant to § 382.205;
 - (B) Pre-duty alcohol use pursuant to § 382.207;
 - (C) Alcohol use following an accident pursuant to § 382.209; and
 - (D) Controlled substance use pursuant to § 382.213;
- v. The SAP report of the successful completion of the return-to-duty process;
- vi. A negative return-to-duty test; and
- vii. The City's report of completion of follow-up testing.

6. Federal Rule Violations.

Besides the penalties set out by the City for violations of these rules, the Federal rule violations have the following consequences:

- a. No driver may drive if they have used a listed drug, no driver may drive within four hours of using alcohol or at any time when an alcohol test indicates an alcohol concentration of 0.02 percent or greater.
- b. A driver violating these rules may not return to safety-sensitive function until evaluated and released by a SAP, and subsequently tested for alcohol and drugs with negative results.
- c. A driver tested with an alcohol concentration greater than 0.02 percent and less than 0.04 percent may not drive or perform other safety-sensitive functions for not less than 24 hours after the administration of the test, and must test .02 percent or below before being allowed to return to safety-sensitive functions.
- d. Federal Civil penalties for breach of the Federal rules range between \$1,000 to \$10,000 for each offense. Federal criminal penalties for violations of the Federal rules range between \$1 and \$25,000 for each offense or up to 1 year imprisonment for each offense.

SECTION H. CITY TRANSIT EMPLOYEES

1. General.

In addition to the general provisions herein, City employees employed to operate a revenue service vehicle at any time, in revenue service or not, controlling the dispatch or movement of a revenue service vehicle or maintaining a revenue service vehicle, are subject to the rules of the Federal Transit Administration governing drug and alcohol testing (49 CFR 655). Covered employees are required to submit to drug and alcohol tests as a condition of employment in accordance with Part 655. These rules are available for review in the Human Resources Department. Employees performing these safety-sensitive functions are subject to testing for the following prohibitive substances: alcohol, opiates, phencyclidine, marijuana, cocaine, and amphetamines. A summary of those rules follows:

2. Prohibitions.

A transit employee performing a safety-sensitive function is subject to the following prohibitions:

- a. No employee shall report to work or continue working after using a prohibited drug.
- b. No employee shall report to work or continue to perform a safety-sensitive function with an alcohol concentration of 0.02 percent or greater.

- c. No employee shall use alcohol while at work in a safety-sensitive function.
- d. No employee shall use alcohol within four hours of reporting to work or anytime while not at work but on call for work.
- e. No employee may use alcohol for eight hours following an accident or until they have taken a post-accident alcohol test.
- f. No employee shall continue working in a safety-sensitive transit function if they have tested positive for drugs or alcohol, or if they have refused to take a drug or alcohol test, until they have completed the Return to Duty process (per 49 CFR part 40) and test negative for drugs and less than .02 percent alcohol concentration.

3. Additional Definitions.

For purposes of transit operations, the following terms are defined as set out:

- a. *Accident*: An occurrence associated with the operation of a vehicle, if as a result:
 - i. An individual dies; or
 - ii. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or
 - iii. With respect to an occurrence in which the transit vehicle involved is a bus, electric bus, van or automobile, one or more vehicles involved incurs disabling damage and is transported away from the scene by tow truck or other vehicle; or
 - iv. With respect to an occurrence in which the mass transit vehicle involved is a rail car, trolley car, trolley bus, or vessel, the transit vehicle is removed from operation.
- b. *Safety-sensitive function*:
 - i. Operating a revenue service vehicle, including when not in revenue service;
 - ii. Operating a non-revenue service vehicle when such operation requires a Commercial Driver's License;
 - iii. Controlling dispatch or movement of a revenue service vehicle;
 - iv. Maintaining a revenue service vehicle or equipment used in revenue service.
 - v. Carrying a firearm for security purposes.

4. Circumstances of Testing.

Transit safety-sensitive employees are subject to the following drug and alcohol tests:

a. *Pre-employment testing.* A person may not be hired or transferred into a safety-sensitive function until the person has a verified negative result on a pre-employment drug test. Covered employees or applicants who have not performed a safety-sensitive duty for 90 consecutive calendar days regardless of the reason, and that have not been in the City of Columbia random selection pool during that time, must complete a pre-employment test with a verified negative result prior to performing safety-sensitive duties. If the employee or applicant has previously failed or refused a DOT pre-employment drug test, the employee/applicant must provide the City of Columbia proof of successfully completing a return to duty process including referral, evaluation, and treatment plan.

b. *Reasonable suspicion tests.* Employees performing safety-sensitive functions are subject to drug and alcohol testing when one or more supervisors trained under these rules has reasonable suspicion, based upon contemporaneous, articulable observations regarding the appearance, behavior, speech or body odors of the employee, that the employee has used alcohol or a prohibited drug. Alcohol testing may occur just before, during or just after performing a safety-sensitive function, drug testing may occur any time while on duty.

c. *Post-accident testing.*

i. In the case of a fatal accident. As soon as practicable following a fatal accident, the employee operating a mass transit vehicle at the time of the accident shall be given alcohol and drug tests. Any other covered employee whose performance could have contributed to the accident shall be given drug and alcohol tests as determined using the best information available at the time of the decision.

ii. In the case of a non-fatal accident. As soon as practicable following the accident, the employee operating a mass transit vehicle and any other covered employee whose performance could have contributed to the accident, shall be given drug and alcohol tests unless the supervisor determines using the best available information at the time of determination that the employee's performance can be completely discounted as a cause of the accident.

iii. Safety-sensitive employees must remain readily available for post-accident testing. An employee who fails to remain readily available or accessible for testing, including notifying the supervisor of his/her location if he or she leaves the scene of a qualifying accident before submitting to such test, may be considered a refusal to test. Alcohol testing must occur within 2 hours, up to 8 hours, drug testing must occur within 32 hours, if testing is not administered within the required times, the supervisor shall document and maintain a record stating reasons the testing was not administered. Records shall be submitted to FTA upon request of the Administrator. 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 leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

f. *Random testing.* Employees performing safety-sensitive functions are subject to random drug and alcohol testing. The random selection method is a computer based random number generator which is matched with employee's identification numbers. Each transit employee has an equal chance of being tested each time selections are made. Random test dates will be unannounced and reasonably spread throughout the year and hours worked. Alcohol testing may occur just before, during or just after performing a safety-sensitive function, prohibited drug use testing may be anytime while on duty. When notified of random testing, employees must cease safety-sensitive functions as soon as possible and immediately report for testing within thirty minutes of notification. Transit's random pool is tested at an annual rate determined by the Federal Transit Administrator.

g. *Return to Duty testing.* Any employee performing safety-sensitive functions who has failed a drug test or refused to test, refused an alcohol test or who has alcohol tested with a breath alcohol content of 0.04% or greater shall be required to undergo a Return to Duty drug or alcohol test before returning to safety-sensitive functions. The results of these tests must be negative for drugs and/or a blood alcohol content of less than 0.02%. Return to duty drug test will be a direct observed collection.

h. *Follow-up testing.* Transit employees performing safety-sensitive functions that have satisfactorily completed the SAP's recommendations and have a negative result on a Return to Duty test shall be subject to such follow-up testing as directed by the SAP. There will be a minimum of six unannounced follow-up tests within the first 12 months following a negative return to duty test and the follow up testing period may last up to 60 months. Follow up drug tests will be a direct observed collection.

i. Employees to be tested under the authority of Federal Transit Rules shall be informed the tests are mandated by those rules. Employees must report to the test site immediately after notified to test. Failure to so report shall be reported to the City's transit authority.

5. Violations.

Besides the penalties set out by the City for violations of these rules, Federal rule violations have the following consequences:

- a. Employees testing positive for drugs will be immediately relieved from safety-sensitive functions, and will not be allowed to return to work in either safety or non-safety-sensitive duties until evaluated and released by a SAP and must test negative on a Return to Duty test. Applicable accumulated leave or leave without pay may be granted for time away from work, treatment, counseling or rehabilitation under applicable ordinance provisions.
- b. Employees testing 0.04% blood alcohol concentration or greater shall be relieved from safety-sensitive functions, and will not be allowed to return to work in either safety or non-safety-sensitive duties until referred to a SAP and shall not be returned to duty until evaluated and released by the SAP and testing less than 0.02% blood alcohol concentration on a Return To Duty Test. Applicable accumulated leave or leave without pay may be granted for time away from work, treatment, counseling or rehabilitation under applicable ordinance provisions.
- c. Employees testing 0.02% to .039% blood alcohol concentration shall be relieved from safety-sensitive duties and not returned to work for at least eight hours. Employees will not be allowed to work in either safety-sensitive or non-safety-sensitive positions during this 8 hour timeframe. Applicable accumulated leave or leave without pay may be granted for time away from work, treatment, counseling or rehabilitation under applicable ordinance provisions. The employee must take a breath alcohol test with a result of less than .02 % alcohol concentration before returning to duty.
- d. Employees refusing to take a required drug or alcohol test, or refusing to provide a breath or urine sample shall be considered to have tested positive and will not be allowed to perform safety-sensitive duties. If an employee asserts that they are unable to provide a urine or breath specimen and a physician concludes in writing that such inability has no medical cause, the inability to provide a specimen shall be considered a refusal and, therefore, a positive test.

SECTION I. EMPLOYEE DRUG AND ALCOHOL EDUCATION.

1. Policy Availability.

The Drug and Alcohol Policy is available by way of the City's Intranet site or a copy of the policy may be obtained from Human Resources.

2. Training Materials.

Safety-sensitive Employee Drug and Alcohol training materials shall include the following content:

- a. The identity of the persons designated to answer employee questions about the City's rules and Federal testing programs.

- b. Information explaining the effects of alcohol and drugs on health, work and personal life, the symptoms of alcohol or substance abuse.
- c. Explanations of employee conduct which is prohibited by these rules and the circumstances under which an employee will be tested.
- d. The drug and alcohol procedures.
- e. An explanation of when testing is required by Federal rules and when it is required by City policy.
- f. Explanation of what constitutes a refusal to test.
- g. Explanation of the consequences of violations of these rules.
- h. Explanation of the consequences of having a breath alcohol concentration greater than 0.02 percent but less than 0.04 percent
- i. The name and contact information of an individual or organization(s) that can provide counseling and access to treatment programs.

3. Amount of Training.

Safety-sensitive employees shall receive a minimum of 60 minutes of training in the effects of substance abuse. Training shall include explanation of DOT regulations governing drug and alcohol testing.

4. Supervisor Training.

Safety-sensitive supervisors shall receive, in addition to the general employee information, a minimum of 60 minutes of training in alcohol misuse and 60 minutes of training in drug use. The training shall cover physical, behavioral, speech and performance indicators of drug and alcohol misuse.

SECTION J. ALCOHOL FACT SHEET

Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for enjoyment and relaxation during social gatherings. However, when consumed primarily for its physical and mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

1. Signs and Symptoms of Use

Dulled mental processes; lack of coordination; odor of alcohol on breath; possible constricted pupils; sleepy or stuporous condition; slowed reaction rate; and slurred speech. (Note: Except for the odor, these are general signs and symptoms of any depressant substance.)

2. Health Effects

The chronic consumption of alcohol (average of three servings per day of beer [12 ounces], whiskey [1 ounce], or wine [6 ounce glass]) over time may result in the following health hazards:

Decreased sexual functioning

Dependency (up to 10 percent of all people who drink alcohol become physically and /or mentally dependent on alcohol and can be termed an alcoholic)

Fatal liver diseases

Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma

Kidney disease Pancreatitis

Birth defects (up to 54 percent of all birth defects are alcohol related) Spontaneous abortion and neonatal mortality

Ulcers

3. Social Issues

Two-thirds of all homicides are committed by people who drink prior to the crime.

Two to three percent of the driving population is legally drunk at any one time. This rate is doubled at night and on weekends.

Two-thirds of all Americans will be involved in an alcohol-related vehicle accident during their lifetimes.

The rate of separation and divorce in families with alcohol dependency problems is 7 times the average.

Forty percent of family court cases are alcohol problem related.

Alcoholics are 15 times more likely to commit suicide than are other segments of the population.

More than 60 percent of burns, 40 percent of falls, 69 percent of boating accidents, and 76 percent of private aircraft accidents are alcohol related.

4. The Annual Toll

24,000 people will die on the highway due to the legally impaired driver.

12,000 more will die on the highway due to the alcohol-affected driver.

15,800 will die in non-highway accidents.

30,000 will die due to alcohol-caused liver disease.

10,000 will die due to alcohol-induced brain disease or suicide. Up to another 125,000 will die due to alcohol-related conditions or accidents.

5. Workplace Issues

Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body.

A person who is legally intoxicated is 6 times more likely to have an accident than a sober person.

Alcohol abuse accounts for 500 million lost work days per year. It takes 1 hr. for the average person (150 lbs.) to process one serving of an alcoholic beverage from the body.

SECTION K. PENALTIES

If an employee violates any provision of this drug and alcohol policy or applicable Federal Drug and Alcohol rules or fails to do anything required under the Policy or these Rules, the employee may be subject to disciplinary action up to and including termination and/or may be required as a condition of continued employment to attend a drug and/or alcohol rehabilitation program approved by the City on the employee's time and at the employee's expense.