

## CHAPTER 12

### EMPLOYEES

#### ARTICLE I – GENERAL REGULATIONS

##### 12-1-1 VACATION TIME.

(A) Full-Time Employees. After **one (1) full year** of service, each and every full-time employee shall be annually entitled to a **one (1) week** vacation with pay. After **two (2) full years** of service and annually thereafter, each full-time employee shall be entitled to **two (2) weeks'** annual vacation with pay. After completion of their **fifth (5<sup>th</sup>) year** of service and annually thereafter, each full-time employee shall be entitled to **three (3) weeks'** annual vacation with pay. Vacation time and pay must be taken in the year available or it will be forfeited. Vacation periods will be scheduled no less than **one (1) month** in advance with the department head or supervisor. The department head or supervisor will make all final decisions in regard to the vacation schedule.

(B) Part-Time Employees. After **one (1) full year** of service each and every permanent part-time employee shall be entitled to paid vacation time equal to **one (1) times** the average weekly hours he/she has worked. After **two (2) full years** of service and annually thereafter, each permanent part-time employee shall be entitled to paid vacation time equal to **two (2) times** the average weekly hours he/she has worked. After **five (5) full years** of service and annually thereafter, each permanent part-time employee shall be entitled to paid vacation time equal to **three (3) times** the average weekly hours he/she has worked. Vacation time and pay must be taken in the year available or it will be forfeited. Vacation periods will be scheduled no less than **one (1) month** in advance with the department head or supervisor. The department head or supervisor will make all final decisions in regard to the vacation schedule. **(Ord. No. 93-0-08; 07-12-93)**

(C) Immediate Family. Includes and is limited to parents, spouses, brothers, sisters, children, stepchildren, grandparents, grandchildren, parents-in-law, brother-in-law, sisters-in-law; legal guardians, and significant others.

(D) Departing Employees. The vacation time provided above is not accrued over a period of time, it is an entitlement which is provided to the employees on their individual anniversary dates. Therefore, an employee whose employment with the City is terminated is entitled to payment for only the vacation leave granted at his or her last anniversary date less any vacation time which has been taken since the last anniversary date. **(Ord. No. 07-06; 04-23-07)**

**12-1-2 SICK LEAVE.** Each full-time employee shall be allowed sick leave with pay because of personal illness or because of serious illness or death of a member of his or her immediate family.

The department head may require any full-time employee requesting sick leave to provide a statement from a licensed physician stating the nature of the illness. The department head also may designate the number of days or hours a full-time employee may be on sick leave due to the death of a member of his or her immediate family, considering the relationship of the deceased to the employee, distance traveled, and other relevant circumstances involved.

Sick leave shall be allowed to accumulate at the rate of **one (1) day** per month up to a maximum of **ninety (90) working days**. In the event a full-time employee uses more than his accumulated sick leave, he may request a medical leave of absence without pay for a period of up to **one (1) year**. (This request shall be in writing to the City Council for their consideration).

The City will provide group health insurance for full-time employees and their dependents according to **Section 12-1-12** while on such leave of absence.

Upon retirement, those employees with **fifteen (15)** or more years of service and **ninety (90) days** of accumulated sick leave will be paid for **ten (10)** of the accumulated sick leave days. **(Ord. No. 90-0-02; 05-14-90)**

**12-1-3**        **DOCTOR VISITS.** Time off for doctor visits shall apply against sick leave if time off exceeds a period of **two (2) clock hours** per visit. **(Ord. No. 613; 08-23-77)**

**12-1-4**        **EMPLOYMENT OF FAMILY MEMBER.** Employment of an immediate family member by a head of a department is prohibited. It will be allowed for members of the same family to work for the City, however they may not work in the same department. Immediate family shall include parents, brother, sister, brother-in-law, sister-in-law, parents-in-law, or child of the hiring department head. **(Ord. No. 561; 05-25-76)**

**12-1-5**        **MEDICAL EXAMINATION.** All new employees shall be required to have taken a medical examination prior to beginning employment for the City, which shall be paid for by the City. Tests to be given shall be determined by the department head. **(Ord. No. 561; 05-25-76)**

**12-1-6**        **PROBATION PERIOD.** All new employees of the City will be employed for a **twelve (12) month** probationary period, except police officers who shall be employed for an **eighteen (18) month** probationary period. At the end of the probation period the employee and his job will be reviewed by his department head and the personnel committee (in the case of the police personnel, the personnel and police committee). Upon consent of the department head and the committee, employees shall begin regular employment. **(Ord. No. 93-0-08; 07-12-93)**

**12-1-7**        **JURY DUTY.** Employees on jury duty shall be given released time with no loss of pay. Remuneration received from the County for jury duty shall be deducted from the regular pay. This shall not include any mileage remuneration. **(Ord. No. 613; 08-23-77)**

**12-1-8**        **LEGAL HOLIDAYS.** The following legal holidays shall be observed by all departments of the City, except the Police Department, to wit:

New Year's Day	Independence Day
President's Day	Labor Day
Good Friday	Thanksgiving
Memorial Day	Day after Thanksgiving
	Christmas

If **one (1)** or more of the legal holidays falls on Sunday, then, and in that event, the legal holiday will be observed on the following Monday. If the legal holiday falls on a Saturday, Friday will be observed. **(Ord. No. 93-0-08; 07-12-93)**

**12-1-9**        **RESIDING WITHIN CITY LIMITS.** All employees, except for clerical help of the City, shall be required to reside within the radius extending **one (1) mile** outside the City limits within a period of **one (1) year** from their first day of employment, and shall continue to reside within the City area during the period of employment. **(Ord. No. 06-23; 07-24-06)**

**12-1-10**       **OVERTIME PAY.** Overtime pay shall be paid to all employees at **one and one-half (1 ½) times** the regular hourly rate for all hours worked (hours worked are defined as normally scheduled hours; this includes holiday hours, vacation hours, personal hours and sick hours) over **forty (40) hours** per work week. (Work week starts on **Saturday at 12:01 A.M.** and ends on **Friday at 12:00 A.M.**) These hours will be paid on a bi-weekly basis. All overtime must be authorized and signed by the department head. **(Ord. No. 03-20; 09-08-03)**

**12-1-11 HOLIDAY PAY.** All full-time employees shall be paid for **nine (9) holidays** during the year as follows:

New Year's Day	Independence Day	Christmas
President's Day	Labor Day	
Good Friday	Thanksgiving	
Memorial Day	Day after Thanksgiving	

These holidays are paid out at the employee's regular hourly rate, based on **eight (8) hours** per holiday.

Apart from any overtime pay any employee who is required or requested to work on a day which the City observes as the holiday will receive **one and one-half (1 ½) time** his regular hourly rate for all hours worked on that day. Holidays which fall on Sunday shall be observed on that following Monday. If a legal holiday falls on a Saturday, then the Friday prior to the holiday will be observed.

(Ex. If New Year's Day falls on Saturday any employee who works on Friday, December 31<sup>st</sup> will be paid at **one and one-half (1 ½) times** his regular hourly rate. However, an employee who works on **January 1<sup>st</sup>** will be paid at his regular rate of pay.) **(Ord. No. 05-03; 03-28-05)**

**12-1-12 INSURANCE COVERAGE.** All full-time employees or those working **thirty-two (32) hours** or more per week excluding seasonal, temporary and summer help, may elect to be covered by health insurance provided for by the City and paid for, in part, by the City all as provided herein. At the election of each employee, this policy may extend to cover the dependents of such employees should they so elect except that the employee shall share in the cost of such coverage as provided herein. Commencing **May 1, 2004** and continuing thereafter unless modified by the City Council and Mayor, the cost of coverage to be paid for by each City employee shall be allocated based on actual cost with **seventy-five percent (75%)** to be paid by City and **twenty-five percent (25%)** to be paid by employee for coverage extended to each employee and each employee's dependents. For the position of City Superintendent the cost of coverage shall be paid **one hundred percent (100%)** by the City including the City Superintendent and **one (1)** dependent. For the position of City Chief of Police the cost of coverage shall be paid **one hundred percent (100%)** by the City including the City Chief of Police and **two (2) dependents**. Any additional dependents shall be paid **seventy-five percent (75%)** by the City and **twenty-five percent (25%)** by the City Superintendent. All payments by employee shall be made bi-weekly and shall be deducted from payroll.

The continuation and related fees of such insurance coverage shall be subject to future review and consideration by the City Council. **(Ord. No. 05-04; 03-28-05)**

**12-1-13 PERSONAL TIME.** All full-time employees or those working more than **thirty-two (32) hours** per week will receive **sixteen (16) hours** of personal time upon the date hired, and will receive additional **sixteen (16) hours** of personal time every year thereafter on their anniversary date. Personal time must be taken in the year available or will be forfeited.

**12-1-14 PAY DAY.** Pay periods run from Saturday to Friday on a two-week cycle. Employees are then paid every other Wednesday. This is subject to change by authorization of the Mayor.

## ARTICLE II – DRUG AND ALCOHOL ABUSE POLICY

**12-2-1 PURPOSE.** The City has adopted the following policy that not only meets, but exceeds Federal Motor Carrier Safety Administration (FMCSA) regulations requirements on drug and alcohol abuse as set forth in 49 CFR Parts 40 and 382. This policy supersedes any previous City policy or agreement that may be in existence prior to the effective date of this policy.

All CDL drivers are subject to drug testing as required in 49 CFR Parts 40 and 382. All CDL drivers are subject to alcohol testing whenever they are performing a safety sensitive function, just prior to performing a safety sensitive function, or immediately after performing such functions as required in 49 CFR Parts 40 and 382.

Under the FMCSA drug and alcohol testing regulations for safety-sensitive drivers, the testing for the following five drugs and alcohol is required: *marijuana, cocaine, opiates, phencyclidine and amphetamines*. When drugs are mentioned in this policy it will include these drugs. When alcohol is mentioned in this policy, it will include the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols, including methyl or isopropyl alcohol.

This policy becomes effective **August 1, 2001**.

Any questions or assistance needed regarding our City's CDL drug and alcohol testing program should be directed to:

NAME(S) Sarah Sarantakos or Janet Davis

OFFICE LOCATION 101 E 8<sup>th</sup> Street, Gibson City, IL 60936

PHONE (DAY) (217) 784-5872 (City Hall) (NIGHT) (217) 784-8666  
(Police Department)

### **12-2-2 DEFINITIONS.**

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

**Air Blank.** A reading by an evidential breath testing device (EBT) of ambient air containing no alcohol. (In EBT's using gas chromatography technology, a reading of the device's internal standard.)

**Alcohol Screening Device (ASD).** A breath or saliva device, other than an EBT, that is approved by the National Highway Traffic Safety Administration and placed on the Conforming Products List for such devices.

**Alcohol Use.** The drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol.

**Breath Alcohol Technician (BAT)** is an individual who instructs and assists individuals in the alcohol testing process and operates an EBT. A BAT may also act as a Screening Test Technician (STT) who instructs and assists individuals in the alcohol testing process and operates an ASD.

**Cancelled or Invalid Test.** A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or in which 49 CFR Part 40 otherwise requires a test to be cancelled. A cancelled test is neither a positive nor a negative test.

**Collector** is a person who instructs and assists individuals at a collection site and who receives and makes a screen examination of the urine specimen provided by individuals.

**Commercial Driver's License (CDL)** means a license issued by the State, in accordance with the standards contained in 49 CFR Part 383, to an individual which authorizes the individual to operate a class of commercial motor vehicle.

**Commercial Motor Vehicle (CMV)** means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(A) has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or

(B) has a gross vehicle weight rating of 26,001 or more pounds; or

(C) is designed to transport **sixteen (16)** or more passengers, including the driver; or

(D) is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations.

**Confirmation (or Confirmatory) Test.** In drug testing, a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite. Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method of cocaine, marijuana, opiates, amphetamines, and phencyclidine. In alcohol testing, a second test, following a screening test with a result of 0.02 or higher, that provides a quantitative data of alcohol concentration.

**Consortium.** The Consortium is the Mid-West Truckers Association Drug and Alcohol Testing Consortium (hereinafter called the Consortium). The Consortium is a service agent that provides and coordinates the provisions of a variety of drug and alcohol testing services through other services agents for its participants.

**Department of Health and Human Services (DHHS).** The Department or any designee of the Secretary, Department of Health and Human Services.

**Dilute Specimen.** A specimen with creatinine and specific gravity values that are lower than expected for human urine.

**DOT** means the U.S. Department of Transportation.

**Driver** means any person who operates any commercial motor vehicle. This includes, but is not limited to: full-time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer. Driver includes both applicants for employment (subject to pre-employment testing) and current drivers employed by this employer.

**Employee** means the same as driver.

**Employer** means Gibson City. The term employer includes an employer's officers, designated representatives or management personnel.

**Evidential Breath Testing Device (EBT)**. A device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the .02 and .04 alcohol concentrations, placed on NHTSA's "Conforming Products List (CPL) of Evidential Breath Measurement Devices", and identified on the CPL as conforming with model specifications available from NHTSA's Traffic Safety Programs.

**Federal Motor Carrier Safety Administration (FMCSA)**. The Federal agency responsible for the administration of federal regulations for commercial motor vehicle drivers.

**Government Entity** means the same as employer.

**Initial Test (or Screening Test)**. In drug testing, the test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites. In alcohol testing, an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

**Licensed Medical Practitioner** means a person who is licensed, certified, and/or registered, in accordance with applicable Federal, state, local or foreign laws and regulations, to prescribe controlled substances and other drugs.

**Medical Review Officer (MRO)** is a licensed physician (Medical Doctor or Doctor of Osteopathy) responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results. The MRO must be knowledgeable of and have clinical experience in controlled substance abuse disorders, including detailed knowledge of alternative medical explanations for laboratory confirmed drug test results. The MRO must be knowledgeable about issues relating to adulterated and substituted specimens as well as the possible causes of specimens having an invalid result.

**Primary Specimen**. In drug testing, the urine specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of validity testing.

**Refusal to Test (Alcohol or Controlled Substances)** means that a driver:

(A) Fails to show up for any test within a reasonable time after being directed to do so by the employer or to remain at the testing site until the testing process is complete. This includes the failure of a driver (including an owner/operator) to appear for a test when called by the Consortium;

(B) Fails to provide a urine specimen or fails to attempt to provide a saliva or breath specimen for any drug or alcohol test as required by this policy and 49 CFR Parts 382 and 40;

(C) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring in providing a specimen;

(D) Fails to sign the certification at Step 2 of the Alcohol Testing Form;

(E) Fails to provide a sufficient amount of urine or a sufficient amount of breath, when directed; unless it has been determined, through a required medical evaluation, that there was an adequate medical explanation for the failure;

(F) Fails or declines to take a second test the employer or collector has directed the driver to take;

(G) Fails to undergo an additional medical examination or evaluation as directed by the MRO as part of the verification process, or as directed by the employer concerning the evaluation as part of the shy bladder or insufficient breath procedures;

(H) Fails to cooperate (e.g., leaves the test site before the testing process is completed, refuses to empty pockets) with any part of the drug or alcohol testing process; or

(I) Verbally refuses to test as required by this policy and 49 CFR Parts 382 and 40.

It is also considered a refusal to test (which is the same as a positive test) when the MRO reports to the employer/Consortium, a driver has a verified adulterated or substituted drug test result.

**Safety Sensitive Function** means the time period when a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work.

Safety Sensitive Functions shall include:

(A) All time at the City or shipper plant, terminal, facility or other property, or any public property, waiting to be dispatched, unless the driver has been relieved from duty by the City;

(B) All time inspecting equipment as required by 49 CFR Parts 392.7 and 392.8 or otherwise inspecting, servicing or conditioning any commercial motor vehicle at any time;

(C) All time spent at the driving controls of a commercial motor vehicle in operation;

(D) All time, other than driving time, in or upon any commercial motor vehicle except time resting in a sleeper berth (a berth conforming to requirements of 49 CFR Part 393.76);

(E) All time loading and unloading a vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and

(F) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

**Screening Test Technician (STT)**. A person who instructs and assists individuals in the alcohol testing process and operates an alcohol screening device (ASD).

**Split Specimen**. A part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests it to be tested following a verified positive, adulterated or substituted test of the primary specimen.

**Substance Abuse and Mental Health Services Administration (SAMHSA)**. A Federal agency under the Department of Health and Human Services (DHHS) responsible for the certification of laboratories used as part of the drug testing program.

**Substance Abuse Professional (SAP)** means a licensed physician (Medical Doctor or Doctor of Osteopathy); or a licensed or certified psychologist, licensed or certified social worker, or a licensed or certified employee assistance professional; or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol & Other Drug Abuse). A qualified SAP must be knowledgeable about and have clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders, must be knowledgeable about the SAP function as it relates to employer interests in safety sensitive duties and, must be knowledgeable about 49 CFR Parts 382 and 40, the DOT SAP Guidelines and stay current on any changes to these materials.

**Substituted Specimen.** A urine specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.

**Validity Test.** The initial validity testing is conducted to determine if a urine specimen is adulterated, diluted or substituted. The confirmation validity testing is a second test conducted on a urine specimen to further support a validity test result.

**Verified Test.** A drug test result or validity test result from a DHHS/SAMHSA-certified laboratory that has undergone review and final determination by the MRO.

**12-2-3 USE PROHIBITED.** 49 CFR (Code of Federal Regulations) Parts 382 and 40 prohibit the use/misuse of controlled substances and/or alcohol by drivers of commercial motor vehicles.

Notwithstanding the disciplinary action as cited in this policy, under the City's independent authority, the unlawful manufacture, distribution, dispensation or possession of drugs are prohibited on the City's premises, in any City-owned or leased commercial motor vehicle, or other location at which the driver is to perform work. If the City proves a driver is engaging in activities as stated above, the driver shall be subject to termination. Any driver who faces criminal action as a result of engaging in activities as stated above will be immediately suspended without pay until the court makes a final determination. If the driver is convicted, the driver will be immediately terminated. If the driver is found not guilty, the driver will be placed back into a safety sensitive function. No retroactive pay will be given to the driver.

Under the City's independent authority, we may conduct reasonable searches for illegal drugs or alcohol on City premises or in City-owned or leased motor vehicles. Searches of drivers and their personal property may be conducted when there are grounds to believe the driver is in violation of this policy. All drivers are expected to cooperate in such searches. A driver's refusal to cooperate or consent to such searches may result in disciplinary action, including termination.

The only exception to alcohol possession in this Policy is alcohol not intended for human consumption or products containing alcohol which, when ingested would not impair driving ability while performing safety-sensitive functions.

The City will maintain a pre-employment screening program designed to prohibit the hiring of anyone who uses any illegal drugs.



No driver, at any work site, in any City-owned or leased vehicle, will possess any quantity of any controlled substance or alcohol, lawful or unlawful, which in sufficient quantity could result in impaired performance. The only exception being a substance administered by or under the direction of a licensed medical practitioner, as stated elsewhere in this Section.

No driver will report for duty or remain on duty requiring the performance of safety-sensitive functions (including driving a CMV) when the driver uses any controlled substance (marijuana, amphetamines, cocaine, opiates and phencyclidine), while on or off duty, except as provided in the following paragraph of this Section. No driver shall report for duty, remain on duty or perform safety-sensitive functions (including driving a CMV) if the driver tests positive or has adulterated or substituted a drug test. No employer having actual knowledge that the driver has tested positive or has adulterated or substituted a drug test, shall permit the driver to perform or continue to perform safety-sensitive functions (including driver a CMV). The employer can obtain actual knowledge that a driver has used alcohol or drugs based on the employer's direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or drugs or an employee's admission of alcohol or drug use.

A driver may use a substance administered by or under direction of a licensed medical practitioner who has advised the driver that the substance will not adversely affect the driver's ability to safely perform safety-sensitive functions. A driver may use an over-the-counter substance that will not adversely affect the driver's ability to safely perform safety-sensitive functions. Under the City's independent authority, the driver may be required to inform the City of any prescribed or over-the-counter substances which may impair their ability to perform a safety-sensitive function. The City may require written verification from the licensed medical practitioner or pharmacist that the substance will not adversely affect their ability to safely perform a safety-sensitive function. The driver shall promptly provide such written verification to the City. If the substance should adversely affect their ability to perform a safety-sensitive function, or, if the driver does not promptly provide written verification from the licensed medical practitioner or pharmacist, the City will temporarily remove or reassign the driver from the safety-sensitive function, if deemed appropriate.

The consumption of alcohol is prohibited while the driver is performing a safety-sensitive function. No driver shall report for duty or remain on duty, requiring the performance of safety-sensitive functions, while consuming or having consumed alcohol within **four (4) hours** of reporting for such duties, or having a BAC of .04 or greater. No City having knowledge of such conditions shall allow a driver to perform or continue to perform safety-sensitive functions. Any driver having a BAC of .04 or greater shall be subject to the disciplinary action set forth in **Section 12-2-10** of this policy.

No driver required to take a post-accident alcohol test shall use alcohol for up to **eight (8) hours** after the accident or until a post-accident test is completed.

No driver shall refuse to submit to a drug or alcohol test (see Refusal to Test definition in **Section 12-2-2**) when required in accordance with 49 CFR Parts 382 and 40. It is a violation of this policy when a driver refuses to test. A driver shall not be permitted to

perform or continue to perform safety-sensitive functions when he/she refuses to submit to a drug or an alcohol test and will be subject to the Disciplinary Action in **Section 12-2-10** of this policy.

Any driver who has engaged in conduct prohibited in this Section shall be advised by the City of the resources available in evaluating and resolving problems associated with the misuse of alcohol and/or drugs by providing the driver with the name, address and telephone number of one or more SAP's and treatment facilities. The driver will also be subject to the Disciplinary Action in **Section 12-2-10** of this policy.

**12-2-4**      **TYPES OF TESTING.** According to Part 382, drivers shall be subject to **six (6) types** of drug and/or alcohol testing – pre-employment, random, post-accident, reasonable cause, return-to-duty and follow-up. (See **Section 12-2-10** of this policy for disciplinary action resulting from alcohol and/or drug misuse.)

(A)            **Pre-Employment Testing.** Prior to the first time a driver performs a safety-sensitive function for the City, the driver shall be pre-employment drug tested except when the conditions of the exceptions listed below apply. The City shall not allow a driver who it intends to hire or use, to perform safety-sensitive functions unless the employer has received a verified negative drug test result for the driver. (Attachment A must be completed by the driver.)

**Exceptions to Pre-Employment Drug Testing.** The City is not required to pre-employment test a driver if the driver has participated in a drug and alcohol testing program that meets the requirements of 49 CFR 382 and 40 within the previous **thirty (30) days** and while participating in that program, either was drug tested within the past **six (6) months** (from date of application with the City) or has participated in a random drug and alcohol testing program for at least the previous **twelve (12) months** (from date of application with the City). The City must insure that no previous employer of the driver of whom the City is aware of has records of a violation of 49 CFR Part 382 or the drug testing rule of any other DOT agency within the previous **six (6) months**. (Attachment B must be signed by the driver in order to get this information.)

In order to find out if the conditions of the exceptions above apply, the City shall send or fax the Attachment B to the co/previous employer through which the driver participates or participated in its drug and alcohol testing program. The City shall obtain and retain from the co/previous employer the completed Attachment B which includes the information in the preceding paragraph and the following: the name and address of the program, verification the driver participates or participated in the program, verify the program conforms to 49 CFR Part 40, verify the driver is qualified under the rules of 49 CFR Part 382, including the driver has not refused to be tested for drugs, the date the driver was last tested for drugs, and the results of any tests taken within the previous **six (6) months**, and any other violations as stated in **Section 12-2-3 (Use Prohibited)**. If the City cannot verify the above information, the City shall conduct a pre-employment drug test on the driver.

The Return to Duty and Follow-Up Testing provisions of this Section do not apply to a driver who refuses to submit to a pre-employment drug test or who receives a positive pre-employment drug test result, if the City does not intend to hire the driver.

(B) **Random Testing.** All drivers covered by this policy will be included as a part of the Mid-West Truckers Association Drug and Alcohol Testing Consortium group from which the Consortium will randomly select a sufficient number of drivers for testing each calendar year to equal an annual rate of not less than a minimum annual percentage for random alcohol (currently **ten percent (10%)**) and drug testing (currently **fifty percent (50%)**) as determined by the FMCSA Administrator.

On a monthly basis, our MRO will, from the total group, randomly select by a computer-based random number generated program that is matched with the membership numbers, the drivers' names and their social security numbers. Under the selection process used, each driver shall have an equal chance of being selected each time selections are made.

Once the MRO makes the monthly selections, the random list will be forwarded to the Consortium who will notify the employers under whose drug and alcohol policies those selected are covered. If any of the City's drivers are selected, the City will be given a date before which the driver must be tested per the random selection process. Failure of the City to ensure the random testing is conducted within the time allotted will cause the City to be out of compliance with the random testing requirement of Section 382.305 of the Federal Motor Carrier Safety Regulations.

The City shall ensure that random drug and alcohol tests conducted under the random testing regulations are unannounced.

A driver shall only be tested for alcohol while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

(C) **Post-Accident.** As soon as possible following an accident involving a CMV on a public road, a post-accident drug and alcohol test shall be conducted when either of the two circumstances below apply:

- (1) If an accident involves a fatality;
- (2) If a driver receives a citation for a moving traffic violation and either the accident involves bodily injury to a person who as a result of the accident immediately receives medical treatment away from the scene of the accident, OR, one or more motor vehicles incur disabling damage as a result of the accident, requiring the motor vehicle(s) to be transported away from the scene by tow truck or other motor vehicle.

If a post accident alcohol test is not conducted within **two (2) hours** following the accident, Employer shall prepare and maintain on file a record stating why the alcohol test was not promptly administered. If the alcohol test is not conducted within **eight (8) hours** following the accident, Employer shall cease all attempts to complete the alcohol test and shall prepare and maintain a record stating why the alcohol test was not promptly administered. (See Attachment C)

If a post-accident drug test is not conducted within **thirty-two (32) hours** following the accident, Employer shall cease all attempts to conduct the drug tests and prepare and maintain on file a record stating why the drug test was not promptly administered. (See Attachment C)

A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the City as a refusal to test. Nothing in this Section shall be

construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary medical care.

The City shall provide the driver with necessary post-accident information, procedures and instructions prior to the driver operating a CMV, so that the driver will be able to comply with the requirements of this Section. (See Attachment D)

Drug and/or breath or blood alcohol tests conducted by federal, state or local officials, having independent authority for the test, shall be considered to meet the post-accident testing requirements, provided such testing conforms to the applicable federal, state or local drug and/or alcohol testing requirements and that the results are obtained by the City.

(D) **Reasonable Cause Testing.** All persons designated by the City who supervise the City's drivers must complete supervisory training in accordance with Part 382.603. When the designated person(s) has reasonable suspicion that a driver has violated the "Use Prohibited" provision of **Section 12-2-3** of this policy, that driver shall be required to submit to an alcohol and/or drug test. The City's determination that reasonable suspicion exists to require the driver to undergo an alcohol and/or drug test must be based on specific contemporaneous, articulable observations concerning the appearance, behavior, speech or body odor of the driver. (See Attachment E)

Alcohol testing is authorized only when observations of the driver are made during, just before, or just after the period of the work day the driver is required to be in compliance with Part 382. The driver may be required to undergo reasonable suspicion alcohol testing while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased such functions.

If a reasonable cause alcohol test is not conducted within **two (2) hours** after observing the driver, the City shall prepare and maintain on file a record stating the reason why the test was not promptly administered. If the test is not conducted within **eight (8) hours** after observing the driver, the City shall cease attempts to conduct the test and prepare and maintain on file a record stating the reasons why the test was not administered.

No driver shall report for duty or remain on duty when the City's designated person(s) has observed the driver as under the influence of alcohol or impaired by alcohol. The City shall not permit the driver to perform or continue to perform safety-sensitive functions until an alcohol test is conducted and the driver's alcohol test result is less than .02 or **twenty-four (24) hours** have elapsed since the City's first suspicion of the driver being under the influence or impaired by alcohol.

Refusal to submit to a reasonable cause test shall be considered a positive test.

The reasonable cause observation form must be completed and signed by at least one of the City's designated person(s) who made the observations either within **twenty-four (24) hours** of the observed behavior or before the drug test results are released, whichever is earlier. (See Attachment F)

(E) **Return to Duty Testing.** Any driver who has engaged in conduct prohibited in the "Use Prohibited" (**Section 12-2-3**) of this policy or any other DOT drug and alcohol regulation shall be advised by the City of the resources available in evaluating and resolving problems associated with the misuse of alcohol and/or drugs by providing the driver with the name, address and telephone number of one or more SAP's and treatment facilities.

Any driver who has violated the "Use Prohibited" (**Section 12-2-3**) of this policy or any other DOT drug and alcohol regulation shall have a face-to-face clinical assessment and evaluation by a SAP to determine what assistance is needed for the driver to resolve problems associated with alcohol and/or drug use. The SAP must refer the driver to an appropriate education and/or treatment plan and provide a letter to the City stating the specific recommendations of assistance for the driver. The driver shall have a face-to-face follow-up evaluation to determine if the driver has actively participated in the education and/or treatment program and has demonstrated successful compliance with the initial assessment and evaluation recommendations. Successful compliance could mean full or partial completion of the evaluation recommendations.

If the SAP feels the driver has not successfully complied with the recommendations of assistance, the SAP must provide a letter to the City stating so. The driver will not be allowed to return to safety-sensitive functions and the City may take employment action against the driver, up to and including termination.

If the SAP feels the driver has successfully complied or is continuing to comply with the recommendations of assistance, the SAP must provide a letter to the City stating so. The SAP letter may include requirements for further recommendations of assistance and follow-up evaluations if the SAP believes that ongoing services are needed to assist the driver in maintaining sobriety or abstinence from drug use after the driver returns to safety-sensitive functions. The SAP letter provided to the City shall also include the SAP's follow-up testing plan for the driver.

The City shall fax or mail a copy of the SAP letter to the Illinois Municipal League, which will forward a copy to the Consortium, who shall fax a copy to the MRO. The MRO will assist the City in determining the driver has complied with the SAP's recommendations and if the City is ready for the driver to return to safety-sensitive functions, a return to duty test will be scheduled.

The SAP may direct the driver to undergo both a drug and alcohol test if the SAP determines that return to duty testing for both drugs and alcohol are necessary for the driver. If the alcohol test result is less than .02, and the drug test result is negative, the driver may return to safety-sensitive functions.

The City may choose to have all return to duty drug tests conducted under direct observation.

The provisions of this Section do not apply to an applicant who refuses to submit to a pre-employment drug test or who receives a positive pre-employment drug test result and will not be hired. The provisions of this Section will not apply if the City has chosen not to rehire a driver who previously violated a provision of the City's policy.

(F) **Follow-Up Testing.** The driver will be subject to unannounced follow-up drug and/or alcohol tests following the driver's return to safety-sensitive functions. The number and frequency of such tests shall be determined by the SAP and shall consist of at least **six (6)** tests in the first **twelve (12) months** of the driver's return to duty. The SAP may direct the driver to undergo both drug and alcohol tests if the SAP determines that follow-up testing for both drugs and alcohol are necessary for that driver. Follow-up testing shall not

exceed **sixty (60) months** from the date of the driver's return to duty. The MRO will assist the City in ensuring that follow-up testing is conducted in accordance with the plan established by the SAP.

The provisions of this Section do not apply to applicants who refuse to submit to a pre-employment drug test or who receives a positive pre-employment drug test result and will not be hired. The provisions of this Section will not apply if the City has chosen not to rehire a driver who previously violated a provision of the City's policy.

**12-2-5      DRUG TESTING.**

(A)      **Drug Testing Procedures.** All drug testing procedures will be followed in accordance with 49 CFR Part 40.

To ensure the integrity of collections, the facilities to be used for testing must be secured during drug testing by visual inspection to ensure that no foreign or unauthorized substances are present, to ensure other persons are not present and to ensure undetected access is not possible.

Bluing agents shall be put in the toilet bowl and in a moveable toilet tank (unless the tank is taped or otherwise secured). Any water source shall be secured or otherwise made unavailable to the driver. All soaps, disinfectants, cleaning agents or other possible adulterants shall be removed from the facility or otherwise secured, if not removable. All areas and items in the facility that could conceal contaminants shall be secured. All of the above shall be rechecked following each collection.

A driver shall appear at the collection site at the time specified by the City. If the driver does not appear at the specified time, the collector shall notify the City to determine how long it should take for the driver to arrive at the collection site. If the driver has not arrived by that time, the collector will contact the City to inform him/her the driver has not reported for testing.

When the driver arrives at the collection site, the testing process will begin without undue delay. To ensure the security during the testing process, only one collection will be conducted at a time. The driver must have positive identification either by photo identification or by the identification of the driver by the City representative. The collector will explain the basic collection procedures and show the driver the instructions on the back of the Federal Drug Testing Custody and Control Form (hereinafter called CCF). The driver will be instructed to remove and leave with the collector, or in a mutually agreeable location, any outer clothing (such as a coat, hat, coveralls) along with any briefcase, purse or other personal belongings. The driver may retain his/her wallet.

The driver will be directed to empty his/her pockets and display the items in them. If the collector determines none of the items could adulterate the specimen, the driver may return the items into his/her pockets. If there is any material that could adulterate a specimen, the collector must determine whether the material was accidentally brought in or intentionally brought in to adulterate the specimen. If it was accidental, the collector will retain the material and return it to the driver when the testing process is complete. If it was intentional, a direct observation test will take place immediately.

The driver will be instructed to list any medications that he/she is currently taking on the CCF (unless it is the driver's copy).

The collector shall complete Step 1 of the CCF. The driver shall wash and dry his/her hands before providing the specimen. Thereafter, the driver will have no further access to water or other materials until the specimen is given to the collector. The driver will select a collection kit and the seal on the collection container will be broken in front of the collector and the driver. The driver will be instructed to go into the room, provide at least **forty-five (45) ml** of urine, not flush the toilet and return to the collector with the specimen. The driver will provide the specimen in private, except in the case of an observed or monitored collection. Any conduct that clearly indicates an attempt to tamper with a specimen will cause a new collection under direct observation to take place immediately.

The collector will ensure there is at least **forty-five (45) ml** of urine in the collection container and the temperature of the specimen is within the range of **ninety (90) – one hundred (100) degrees**. If the temperature is out of that range, a new collection under direct observation will take place immediately. The specimen will also be inspected for unusual color, the presence of foreign objects or material or for other signs of tampering. If it is apparent the driver has tampered with the specimen, a new collection under direct observation will take place immediately.

The collector shall explain to the driver the reason for a direct observation test, except when the City is required to do so. If the collector is not the same gender as the driver, a same gender observer will watch the driver urinate into the collection container. The observer will continue to watch the specimen until it is given to the collector.

A monitored collection will only be conducted if a multi-stalled restroom is used and all sources of water or potential adulterants cannot be secured. The collector must be the same gender, unless he or she is a medical professional. An observer must be the same gender. A bluing agent shall be put in the toilet the driver will use. The driver shall provide the urine specimen behind a closed stall door with the collector/observer standing outside of the stall door listening to the driver urinate into the collection container. If the collector/observer hears sounds or makes other observations of the driver attempting to tamper with a specimen, another collection will take place immediately under direct observation.

The tabs on the specimen bottles will be broken in front of the collector and the driver. The driver will give the specimen container to the collector and the collector will pour the urine specimen into the split specimen bottles. The primary specimen shall be at least **thirty (30) ml** of urine. The split specimen shall be at least **fifteen (15) ml** of urine. The driver should observe the specimen at all times until the lids/caps are secured and the tamper-evident bottle seals are put over the lids/caps (this is for the driver's protection to ensure it is his/her specimen). The driver is to initial the tamper-evident bottle seals on the bottles for proof that it is his/her specimen. The driver will also be required to sign the CCF as proof that the specimen identified as having been collected is in fact the driver's. The collector will complete the CCF and place the specimen bottles and Copy 1 of the CCF in the pouches of the plastic bag and secure both pouches. The driver will then be dismissed from the collection site.

Both specimens are then sent by overnight delivery to the DHHS/SAMHSA-certified laboratory for testing of the five drugs or classes of drugs (as described in **Section 12-2-1**) and for validity testing.

All results will be reviewed by the MRO. Negative results will be released by the MRO to the Consortium, who will forward the results to the Illinois Municipal League, who will forward the results to the City.

Before a laboratory-confirmed positive test, adulterated test, substituted test or invalid test result will be released to the Consortium, the MRO will conduct a verification interview with the driver by telephone unless: the driver declines to discuss the test result; the MRO or the City cannot make contact with the driver within **ten (10) days** of the MRO receiving the laboratory result; or more than **seventy-two (72) hours** have passed since the City has contacted the driver to call the MRO.

Before the start of the verification interview with the driver, the MRO will warn the driver that any medical information given to the MRO (medical conditions, medications or other substances affecting the performance of safety-sensitive functions the driver reports having or using) will be provided to third parties (the City, a SAP evaluating a driver as part of the return to duty process, DOT, another federal safety agency or any other safety agency) if the MRO determines the information is likely to result in the driver being medically unqualified to perform safety-sensitive functions or is likely to pose a significant safety risk if the driver is allowed to continue performing safety-sensitive functions.

During the verification process, if the driver can give the MRO a legitimate medical explanation for the positive, adulterated or substituted test result, the MRO will report the verified test result as negative. If the driver cannot give the MRO a legitimate medical explanation, the verified positive test result will be reported as positive and the verified adulterated or substituted test result will be reported as a refusal to test. If the test result is invalid or contains an unexplained interfering substance and the driver cannot give the MRO an acceptable explanation or a valid prescription and the driver does not admit to adulterating or substituting the specimen, the verified test result will be reported as a cancelled test with a second collection to take place immediately with the driver under direct observation. If the driver can give the MRO an acceptable explanation, the verified test result will be a cancelled test with no further testing needed unless a negative result is needed for pre-employment, return to duty or follow-up testing. If the driver admits to adulterating or substituting the specimen, the verified test result will be reported as a refusal to test.

All verified positive, refusal to test (adulterated or substituted) and cancelled test results will be released by the MRO to the Consortium, who will forward the results to the Illinois Municipal League, who will forward the results to the City.

(B) **Dilute Specimens.** The City will treat a verified positive drug test result that is dilute the same as a verified positive drug test result.

The City may choose to have a second collection conducted on all negative dilute test results or may choose to have a second collection conducted on only certain types of negative dilute test results (e.g., all pre-employment negative dilute test results, but not any other type of test). The second collection would not be conducted under the direct observation. The City may also choose to not have any second collections conducted on negative dilute test results.



If a second collection is conducted, the second test result will be the test of record. The City will inform all drivers in advance if the City's choice is to conduct second collections on negative dilute test results and for which types of tests. All drivers will be treated the same.

(C) **Shy Bladder.** After a driver's first unsuccessful attempt to provide a minimum of **forty-five (45) ml** of urine, the shy bladder time starts. Any insufficient specimen shall be discarded. The driver will be urged to drink up to **forty (40) ounces** of fluids, reasonably through a period of up to **three (3) hours**; however, it is not considered a refusal to test if the driver chooses not to drink fluids. If the driver does not provide a sufficient amount of specimen within **three (3) hours**, the collection will be discontinued and the City will be notified. The City will consult with the MRO, then direct the driver to obtain, within **five (5) working days**, an evaluation from a licensed physician, acceptable to the MRO, who has expertise in the medical issues associated with the driver's inability to provide an adequate amount of specimen. The physician must provide to the MRO a written statement of his/her recommendations and the basis for them. If the driver has a medical condition that could have prevented him/her from providing a sufficient amount of urine, and the MRO agrees with the physician's recommendation, the MRO will report the test result as a cancelled test. If the driver does not have a medical condition that could have prevented him/her from providing a sufficient amount of urine and the MRO agrees with the physician's recommendation, the MRO will report the test result as a refusal to test.

(D) **Split Specimen Tests.** When a driver is notified of a positive drug test or a refusal to test because of adulteration or substitution, the driver has **seventy-two (72) hours** from the time of notification by the MRO to request a test of the split specimen either verbally or in writing to the MRO. The MRO will then prepare the documentation and forward it to the laboratory that is storing the split specimen. The lab will then prepare the documentation and send both the split specimen and the documentation to another DHHS/SAMHSA lab for the split specimen testing. Pending the result of the split specimen test, the driver is not allowed to remain in a safety-sensitive function.

If the driver is unable to contact the MRO within **seventy-two (72) hours**, the driver may present to the MRO information documenting that serious illness, injury, inability to contact the MRO, lack of actual notice of the verified test result, or other circumstances unavoidably prevented the driver from timely contacting the MRO. If the MRO concludes there is a legitimate explanation for the driver's failure to contact the MRO within **seventy-two (72) hours**, the MRO shall direct that the test of the split specimen take place.

Another DHHS/SAMHSA laboratory will test the split specimen to either reconfirm or fail to reconfirm the positive, adulterated or substituted drug test result from the result of the primary specimen. If the split specimen reconfirms the positive, adulterated or substituted result, the positive or refusal to test result will stand. If the split specimen fails to reconfirm the positive, adulterated or substituted result, both the primary specimen and the split specimen test results will be cancelled by the MRO.

If the driver notifies the MRO to test the split specimen and the laboratory reports to the MRO the split specimen is not available, the MRO will cancel both the primary specimen and the split specimen test results and direct the City to conduct another collection on the driver immediately under direct observation.

Under the City's independent authority, any driver who requests a test of his/her split specimen shall reimburse the City for the cost of the split specimen test assessed to the City by the Consortium.

**12-2-6      ALCOHOL TESTING.**

(A)      **Alcohol Testing Procedures.** All alcohol testing procedures will be followed in accordance with 49 CFR Part 40. All alcohol testing will be administered by a BAT/STT who has met the qualification training requirements in 49 CFR Part 40.

The driver shall only be tested for alcohol while the driver is performing a safety-sensitive function, just before a driver is to perform a safety-sensitive function, or just after the driver has ceased performing a safety-sensitive function.

If both a drug and alcohol test is to be conducted on the driver, the alcohol test must be completed before the urine collection process begins.

To ensure the security of the alcohol testing site, only authorized personnel shall be allowed to enter the testing site. The BAT/STT shall ensure that the driver is given privacy while an alcohol test is being conducted to prevent unauthorized persons from seeing or hearing the test result. Alcohol testing will be conducted on one driver at a time. The screening test and confirmation test, if needed, will be completed on a driver before the BAT/STT starts an alcohol test on another driver to be tested.

A driver shall appear at the collection site at the time specified by the City. If the driver does not appear at the specified time, the BAT/STT shall notify the City to determine how long it should take for the driver to arrive at the collection site. If the driver has not arrived by that time, the BAT/STT will contact the City to inform him/her the driver has not reported for testing.

When the driver arrives at the collection site, the testing process will begin without undue delay. The driver must have positive identification either by photo identification or by the identification of the driver by the City representative. The BAT/STT will explain the testing procedures and show the instructions on the back of the DOT Alcohol Testing Form (hereinafter called ATF) to the driver. The BAT/STT shall complete Step 1 on the ATF. The driver will then be directed to complete Step 2 on the ATF and sign the certification. If the driver refuses to sign the certification, the BAT/STT will document on the ATF that the driver has refused to test and the City will be immediately notified.

If a saliva ASD (hereinafter called device) is used for the screening test, the BAT/STT will check the expiration date on the device and show it to the driver. If it is beyond the expiration date, the device shall be disposed of and a new device shall be used.

The BAT/STT will offer the driver the choice of using the swab himself/herself, or having the BAT/STT use the swab. If the driver uses it, the BAT/STT will instruct the driver to insert the absorbent end of the swab in his/her mouth and actively swab around the cheeks, gums and under the tongue for **thirty (30) to sixty (60) seconds** or until the cotton swab is thoroughly wet. Otherwise, if the driver chooses not to use the device, the BAT/STT will swab the driver's mouth. The BAT/STT will wear single-use examination or similar gloves when swabbing the driver's mouth and will change the gloves following each test given.

If the swab breaks or is contaminated (dropped on the floor or on a surface) or the swab is removed or falls from the device before the device is activated, the BAT/STT shall discard the device and conduct a new test using a new device. The BAT/STT shall note in the remarks section of the ATF the reason for the new test. The BAT/STT will offer the driver the choice of using the swab himself/herself, or having the BAT/STT use the swab, unless the BAT/STT feels the driver was responsible for the new test needing to be conducted.

On the new device, if the swab breaks or is contaminated (dropped on the floor or on a surface) or the swab is removed or falls from the device before the device is activated, the collection shall be terminated and an explanation shall be noted in the remarks section of the ATF. A new test shall then be conducted immediately by a BAT using an EBT for the screening test.

The BAT/STT shall place the device on a flat surface or hold the device at a slight angle and insert the swab into the entry port. The BAT/STT shall then apply gentle, steady pressure until the device indicates it is activated.

If the saliva ASD procedures are correctly followed but the device does not activate, the BAT/STT shall discard the device and conduct a new test on a new device. In all cases where a new test is necessary because the device does not activate, the BAT/STT will swab the driver's mouth.

The BAT/STT shall read the result displayed on the device **two (2) minutes** after inserting the swab into the entry port. The BAT/STT shall show the device and its reading to the driver and shall record the result on the ATF. The BAT/STT shall also enter that a saliva ASD was used in Step 3 on the ATF.

If the result is less than .02 alcohol concentration, the BAT/STT shall sign and date Step 3 of the ATF. The BAT/STT must immediately transmit the alcohol test result using Copy 1 of the ATF by telephone, electronic means, or in person to the City. All devices and materials used in the testing process shall be properly disposed of.

If an EBT is used for the screening test, the BAT or the driver will select an individually sealed mouthpiece. The BAT will open the sealed mouthpiece in front of the driver and insert it into the EBT. The driver will be requested to blow steadily and forcefully into the mouthpiece for at least **six (6) seconds** or until the EBT indicates that enough breath has been obtained. The driver will be shown the breath alcohol test result and the result will be affixed to the ATF with tamper-evident tape.

If the result is less than .02 alcohol concentration, the BAT shall sign and date Step 3 on the ATF. The BAT must transmit the alcohol test result using Copy 1 of the ATF immediately by telephone, electronic means or in person to the City.

If the alcohol concentration is .02 or greater, a confirmation test shall be conducted with an EBT not less than **fifteen (15) minutes** nor more than **thirty (30) minutes** after the completion of the screening test. During that time, the driver will be asked not to eat, drink, belch or put anything into his/her mouth to prevent an accumulation of mouth alcohol that could lead to an artificially high reading on the confirmation test. The BAT/STT will note in the remarks on the ATF these instructions were given and will also note on the ATF if the driver chose to ignore the instructions. The confirmation test will still be conducted. If the confirmation test will be conducted at a different site, the BAT/STT or the City must transport the driver to the testing site. The driver will not be allowed to drive a motor vehicle.

If the confirmation test is conducted more than **thirty (30) minutes** after the result of the screening test, the BAT shall note in the remarks on the ATF the reason the confirmation test could not be conducted within the **fifteen (15) to thirty (30) minute** time frame. The confirmation test will still be conducted.

If the screening test was conducted by a STT or if the confirmation test is to be conducted by a different BAT, the STT or BAT who conducted the screening test shall complete and sign Step 3 on the ATF and give the driver Copy 2 of the ATF. A new ATF will be used by the BAT who will be conducting the confirmation test. The BAT will require positive identification of the driver and explain the confirmation testing procedures. The BAT shall complete Step 1 on the ATF. The driver will then be directed to complete Step 2 on the ATF and sign the certification. If the driver refuses to sign the certification, the BAT/STT will document on the ATF that the driver has refused to test and the City will be immediately notified.

Before the confirmation test is conducted, the BAT must conduct an air blank test on the EBT that reads "0.00" and show the reading to the driver. An individually sealed mouthpiece will be opened in front of the driver and attached to the EBT. The BAT and the driver shall read the sequential test number displayed on the EBT. The driver will be requested to blow steadily and forcefully into the mouthpiece for at least **six (6) seconds** or until the EBT indicates that enough breath has been obtained. The driver will be shown the breath alcohol test result and the result will be affixed to the ATF with tamper-evident tape.

If the confirmation test result is less than .02 alcohol concentration, the BAT shall sign and date Step 3 on the ATF. The BAT must transmit the alcohol test result using Copy 1 of the ATF immediately by telephone, electronic means or in person to the City.

If the confirmation test result is .02 or greater alcohol concentration, the driver shall be directed to sign Step 4 on the ATF. If the driver does not sign, the BAT will note in the remarks on the ATF of the driver's failure to sign Step 4. The driver's failure to sign Step 4 will not be considered a refusal to test. The BAT must immediately notify the City by means of an alcohol test result of .02 or greater to ensure the result is immediately received by the City.

If a screening or confirmation test is invalid, the BAT/STT will inform the driver that the test is cancelled and note the problem on the remarks line on the ATF. If a new screening or confirmation test is capable of being done, a screening test will be repeated or a retest will be conducted for the confirmation test on the driver.

(B) **Inability to Provide an Adequate Amount of Saliva or Breath.** If a driver is unable to provide sufficient saliva to complete a test on the saliva ASD to activate the device, the BAT/STT shall conduct a new test using a new saliva ASD. If the driver refuses to complete the new test, the BAT/STT shall terminate testing and immediately notify the City.

If a new test is conducted and the driver is still not able to provide sufficient saliva to complete the test, the City shall be immediately notified and the alcohol test will then be administered by a BAT using an EBT.

If a driver is unable, or alleges he/she is unable to provide an amount of breath sufficient to give a reading on the EBT, the BAT should again instruct the driver to

attempt to provide an adequate amount of breath and the proper way to do so. If the driver refuses to make a second attempt, the BAT shall discontinue the test and immediately notify the City.

If the driver does make an attempt again and fails to provide an adequate amount of breath, the BAT may provide another opportunity to the driver if the BAT feels there is a strong likelihood the driver could provide a sufficient amount of breath. If the driver fails to provide an adequate amount of breath, the BAT shall note the failure on the remarks of the ATF and immediately notify the City. The City will then direct the driver to obtain, within **five (5) days**, an evaluation from a licensed physician who is acceptable to the City and has expertise in the medical issues associated with the driver's inability to provide sufficient specimen. The City will tell the physician the driver was required to take a DOT breath alcohol test but was unable to provide a sufficient amount of breath and the consequences for refusing to take the required alcohol test. The City must also tell the physician to provide to the City a signed statement of the physician's conclusions and the basis for them. If the physician determines the driver has a medical condition that could have prevented him/her from providing a sufficient amount of breath, the test will be cancelled. No further testing will be required except when the driver needs a test result of less than .02 for a return to duty or a follow-up test. If the physician determines the driver does not have a medical condition that could have prevented him/her from providing a sufficient amount of breath, it will be considered a refusal to test. The City shall notify the driver of the physician's conclusions.

(C) **Other Alcohol-Related Conduct.** No driver tested under **Section 12-2-4** of this policy who is found to have an alcohol concentration of .02 or greater, but less than .04, shall perform or continue to perform safety-sensitive functions, including driving a CMV, nor shall the City allow a driver to perform or continue to perform safety-sensitive functions, including driving a CMV, until the start of the driver's next regularly scheduled duty period, but not less than **twenty-four (24) hours** following the administration of the alcohol test.

**12-2-7 ACCESS TO RECORDS.** All records pertaining to the City's drug and alcohol testing program shall be maintained in a secure location with controlled access and shall be maintained according to 49 CFR 382.401. Records, including drug and alcohol test results, shall only be released in the following circumstances:

Drivers are entitled to copies of their records pertaining to their use of drugs and alcohol, including any records pertaining to their drug and alcohol tests. The City shall promptly provide records requested by the drivers. Access to the driver's records shall not be conditional upon payment for records, other than those they are specifically requesting.

Records to subsequent employers shall be made available upon receipt of a written authorization from the driver. The City will only disclose information that is expressly authorized by the terms of the driver's authorization request. The City shall provide such information and results requested promptly to the subsequent employer at no charge.

The City may disclose drug and alcohol information pertaining to a driver to the decision maker in a lawsuit, grievance or other proceeding initiated by or on behalf of the driver, and arising from the results of a drug and alcohol test administered according to this policy or from the City's determination that the driver engaged in conduct prohibited in

**Section 12-2-3** (“Use Prohibited”) (including, but not limited to worker’s compensation, unemployment compensation or other proceeding relating to a benefit sought by the driver). In addition, the City may disclose information in criminal or civil actions resulting from the driver’s performance of safety-sensitive functions, in which a court of competent jurisdiction determines that the drug and alcohol test information sought is relevant to the case and issues an order directing the City to produce the information. The City may release the information to the decision-maker in the proceeding only with a binding stipulation that the decision-maker to whom it was released will make it available only to parties in the proceeding. The City must notify the driver in writing of any information released to the decision-maker in the criminal or civil proceeding.

The City shall only release information regarding a driver’s record as directed by the specific written consent of the driver to an identified person. Release of that information by the person receiving the information is permitted only in accordance with the terms of the employee’s consent.

Records shall be accessible and copies shall be made available in all of the City’s facilities to the U.S. Secretary of Transportation, an DOT agency, or any state or local officials with regulatory authority over the City or any of the City’s drivers.

Information related to the City’s administration of a post-accident alcohol and/or drug test administered following an accident under investigation by the National Transportation Safety Board (NTSB) shall be made available when requested by the NTSB.

In the event the City chooses to rehabilitate a driver with a positive alcohol test result of .04 or greater, or a refusal to test, Employer shall release the alcohol result and/or documentation to the Illinois Municipal League, who shall forward the result and/or documentation to the MRO to assist with the return-to-duty and follow-up testing as required under 49 CFR Part 40.

**12-2-8 EMPLOYEE ASSISTANCE PROGRAM.** Each driver will receive a copy of this drug and alcohol abuse policy, which includes all requirements under 49 CFR Part 382.601. Some of those requirements include: the name(s) of the person or people that can answer drivers’ questions about the drug and alcohol program and testing; what period of the workday the driver is required to be in compliance; what drivers are required to comply with the federal regulations and this policy; what conduct is prohibited under the drug and alcohol program; what procedures are used to test for drugs and alcohol; and educational information concerning the effects and consequences of drug and alcohol use on the driver’s personal health, safety and work environment, including signs and symptoms of a drug and alcohol problem.

Each driver will be required to sign a Drug and Alcohol Policy Receipt Certificate (See Attachment G) certifying that they received a copy of the drug and alcohol abuse policy which includes the required content as stated above. The City will provide a copy of the Drug and Alcohol Policy Receipt Certificate to each driver and keep the original.

Federal regulations require that the drivers be made aware of the effects of drug and alcohol use on the driver’s health, work and personal life. It is the driver’s responsibility to report to work fit for duty, and remain fit throughout the workday in order to perform in a safe, efficient and productive manner. The driver will also be made aware of the signs and

symptoms of a drug and/or alcohol problem (his/her or a co-worker's) and shall be made aware of ways to intervene when a drug and/or alcohol problem is suspected, including referral to management, referral to an employee assistance program (if available from the City), and referral to drug and/or alcohol abuse hotlines, and help-lines, as provided below.

When a driver suspects a co-worker is under the influence of drugs and/or alcohol, the driver should refer the co-worker's name to management, who shall respond accordingly.

These hotline and help-line numbers are made available as a reference only:

Focus on Recovery Help-Line for Alcohol and Drug Abuse (800) 234-0286, (800) 234-0246, (800) 234-0420

The Center for Substance Abuse Treatments Drug Information, Treatment, and Referral Hotline (800) 662-HELP (4357)

Under the City's independent authority, any driver who feels he/she may have a drug and/or alcohol use problem may come forward for assistance as long as it is before a driver's notification of an impending drug and/or alcohol test and before the driver performs a safety-sensitive function. The City shall provide the driver with referrals of where the driver can go for assistance. The driver will be removed from any safety-sensitive function, and if no other position is available, will be put on unpaid leave of absence until such time the driver has completed all evaluations and education or treatment program required by the SAP. The City will allow him/her sufficient opportunity to seek an evaluation and education or treatment to establish control over his/her drug and/or alcohol problem. A letter must be written by the SAP and received by the City stating the driver has successfully completed the educational or treatment program. The City will require the driver to complete a return to duty test for drugs and/or alcohol. If the result(s) is negative, the driver may return to performing safety-sensitive functions for the City. The driver will then be subject to follow-up drug and/or alcohol tests as prescribed by the SAP after returning to duty. All costs associated with the evaluations and the education or treatment program will be the responsibility of the driver. The return to duty testing and follow-up testing will be pre-paid by the City, to be immediately reimbursed by the driver.

**12-2-9 INFORMATION CONCERNING THE EFFECTS OF ALCOHOL AND CONTROLLED SUBSTANCES USE ON AN INDIVIDUAL'S HEALTH, WORK AND PERSONAL LIFE.**

Employees who abuse drugs and/or alcohol cause more absenteeism, loss in work productivity, more accidents and more medical claims. This results in a loss of \$140 billion to American businesses each year.

Compared with the average employee, a typical drug-using employee in the workplace is:

- 2.5 times more likely to be absent 8 days or more each year,
- 3 times more likely to be late for work,
- 3.6 times more likely to be involved in workplace accidents,
- 5 times more likely to file a workers' compensation claim; and,
- incur 300% higher medical claims.

**Marijuana.** The common name for the drug made from chopped leaves, stems and flowering tops of a cannabis plant. Some common street names for marijuana are “dope”, “grass”, “joint”, “pot”, “reefer”. Marijuana can be smoked or eaten.

Marijuana is a depressant and mind-altering drug. It works on the brain and causes hallucinations. A person operating a CMV while using marijuana is more than likely to experience slowed reaction time, reduced concentration, distorted vision and depth perception, is slower in making decisions, often drives slower than the speed limit, is unable to correctly measure distance and time, and has impaired short-term memory.

Some of the symptoms and signs of marijuana use are:

- short-term memory loss
- slowed thinking
- moodiness
- dilated pupils
- reddened eyes
- loss of memory
- increased heart rate
- increased appetite

Some visible signs noted for the presence of marijuana are:

- roach clips
- cigarette rolling papers
- “one hitters” (usually metal – slim tubular device)
- small pipes
- bongs

The active ingredient in marijuana (THC) is stored in the body fat and could be retained for days or weeks, depending on the quality of the drug, the tolerance of the user and the dosage or amount taken. Marijuana and alcohol together will magnify the effects of both many times. Chronic marijuana smoking could cause severe irritation of the lungs, heart problems, reduced immune system and possible brain damage.

**Phencyclidine (PCP).** PCP was developed originally as an anesthetic but was taken off the market because it sometimes caused hallucinations. The most common street names for PCP are “angel dust”, “crystal”, “tea” and “THC”. PCP is sold in various forms, mainly as a white, off-white or brown crystal-like powder, tablet or capsule. It can be ingested by mouth, snorted or injected intravenously. It can also be smoked when combined with marijuana or tobacco.

A person operating a CMV while using PCP is more than likely to experience impaired coordination and dulled senses, a sense of power, drowsiness, aggressive behavior, hallucinations and blurred or double-vision. In some cases a person could even experience convulsions, coma, ruptured blood vessels in the brain, heart and lung failure, or even death.

Some of the symptoms and signs of PCP use are:

- confusion
- drowsiness
- increased heart rate, sweating, aggressive behavior
- disorientation
- increased blood pressure



- anxiety
- dizziness
- hallucinations
- panic

Some of the signs for the presence of PCP are:

- needles
- syringes
- plastic packets with a powdery substance
- tablets
- capsules

PCP is water soluble but still could be retained in the body's system for days, depending on the quality of the drug, the tolerance of the user and the dosage or amount taken. PCP and alcohol together is dangerous and could cause an overdose. Chronic PCP use could cause hallucinations, psychosis, convulsions, coma or possible death.

**Cocaine.** Cocaine comes from the leaves of coca plants. Some common street names for cocaine are "coke", "crack", "rock", "snort", "toot", "blow" and "snow". Cocaine can be snorted, injected intravenously, smoked or free-based (heating the cocaine and inhaling the vapor).

Cocaine stimulates the body's central nervous system. Psychological dependence on the drug can be high with repeated use.

A person operating a CMV while using cocaine is more than likely to experience impatience, anger, overstimulated reflexes, distorted vision and depth perception, slow reaction time and false sense of security and alertness. In some cases, a person could even experience seizures, heart attacks, convulsions, hallucinations and death.

Some of the symptoms and signs of cocaine use are:

- dilated pupils
- paranoia
- runny nose
- increased blood pressure
- restlessness
- anxiety
- depressions
- nervousness
- weight loss
- talkativeness
- needle marks
- irritability
- nose bleeds
- hallucinations

Some of the signs for the presence of cocaine are:

- small spoons
- needles
- syringes
- razor blades

- mirrors
- small plastic bags or vials
- small drinking straws
- rolled paper currency
- small butane torch

Cocaine is water soluble but still could be retained in the body's system for several days, depending on the quality of the drug, the tolerance of the user and the dosage or amounts taken. Cocaine causes the most mental dependency of any known drug. Cocaine and depressants, taken together, can be very dangerous or even fatal. Intravenous users have a high risk of contracting liver disease, tetanus, serum hepatitis and AIDS from the use of needles. Chronic cocaine use could cause seizures, heart attacks, strokes, convulsions, depression or death.

**Amphetamines.** Amphetamines are manufactured central nervous system stimulants used most often by drivers to stay awake. Psychological dependence on the drug can be high with repeated use. Some common street names for amphetamines are "speed", "crank", "meth", "crystal", "diet pills", "bennies" and "uppers".

In pure form, amphetamines are yellowish crystals in which some are made into tablets, pills or capsules. Amphetamines can be ingested in tablet, pill or capsule form, snorted, or injected intravenously if in powder or liquid form.

A person operating a CMV while using amphetamines is more than likely to experience delayed reaction time, overstimulated reflexes, anxiety, irritability, distorted vision and depth perception, and a false sense of security and alertness.

Some of the symptoms and signs of amphetamine use are:

- loss of appetite
- weight loss
- dilated pupils
- dry mouth
- sleeplessness
- needle marks
- hallucinations
- anxiety
- depression
- nervousness
- talkativeness
- increased blood pressure
- sweating
- paranoia

Some of the signs for the presence of amphetamines are:

- pills
- tablets
- capsules
- small plastic bags or vials
- needles
- syringes

- razor blades
- small drinking straws
- rolled paper currency
- small butane torch

Amphetamines are water-soluble, but still could be retained in the body's system for several days depending on the quality of the drug, the tolerance of the user and the dosage or amounts taken. Chronic amphetamine use could cause physical collapse, delusions, hallucinations, brain damage, heart damage, toxic psychosis or death.

**Opiates.** Some opiates come from the seed pod of the Asian poppy. Other opiates are synthesized or manufactured. Psychological dependence can be high with repeated use. Some common street names are "horse", "junk", "smack", "downers", "M", "yellow jackets", "blues" and "ludes".

Opiates are in many different compounds and forms. The most common are the pills, tablets or capsules. Other compounds and forms are in liquid or powder form. Opiates can be injected, smoked or injected intravenously.

A person operating a CMV while using opiates is more than likely to experience distorted sense of time and distance, slowed reflexes, difficulty focusing, drowsiness and little or no concentration.

Some of the symptoms and signs of opiate use are:

- nausea
- loss of appetite
- drowsiness
- depression
- reduced pain
- constricted pupils
- diarrhea
- vomiting
- sweating
- memory loss
- short attention span
- cold or moist skin
- confusion
- needle marks

Some of the signs for the presence of opiates are:

- pills
- tablets
- capsules
- needles
- syringes
- small spoons
- eye droppers
- small packets
- bottle caps

Opiates are water-soluble, but still could be retained in the body's system for one to several days, depending on the quality of the drug, the tolerance of the user and the dosage or amounts taken. Opiates taken with alcohol and other depressant drugs magnify the effects of the opiates and could lead to overdoses. Intravenous users have a high risk of contracting liver disease, tetanus, serum hepatitis and AIDS from the use of needles. Chronic opiate use could cause loss of consciousness, convulsions, coma or death.

**Alcohol.** Some common street names for alcohol are "booze", "juice", "brew", "sauce" and "hooch".

As a rule, a drink or two will create a feeling of well-being. What determines the rate of metabolism in the body and how fast it dissipates the alcohol depends on the altitude, the driver's body weight, metabolism, stomach content, gender, and whether the driver is sick or healthy, rested or tired. After the first drink or two, impairment begins, depending on the factors stated above. When the driver consumes alcohol that produces physical or mood-altering effects, it becomes a substance of abuse.

A person operating a CMV while using alcohol is more than likely to experience blurred or distorted vision, impaired reaction time, impaired judgment, anger, nausea, drowsiness and aggressiveness.

Some of the symptoms and signs of alcohol use are:

- slurred speech
- odor on breath
- flushed skin
- glazed eyes
- blackouts
- drowsiness
- incoherence
- memory loss
- unsteadiness
- loss of concentration
- insomnia
- hostility

Chronic alcohol use could cause brain damage, neurological damage, liver damage, pancreas and kidney damage, heart problems, strokes, cancer, coma, toxic psychosis and possible death.

**12-2-10 DISCIPLINARY ACTION OPTIONS.** A violation of this policy will result in termination.

The City will advise the driver who violated this policy of the resources available in evaluating and resolving problems associated with the misuse of drugs and/or alcohol, even though the driver is terminated.

If the City so chooses, prior to being eligible for rehire, a driver who has previously violated this policy shall go to a SAP for a face-to-face clinical assessment and evaluation to determine what assistance is needed for the driver. The SAP must provide a letter to the City stating the specific recommendations of assistance the driver must follow. When the driver

has successfully complied with the SAP's recommendations, the driver shall go to the SAP for a face-to-face follow-up evaluation. The SAP shall confer with or obtain documentation from the appropriate education and/or treatment program the driver was referred to and determine if the driver has demonstrated successful compliance with his/her initial evaluation recommendations. If the driver has shown successful compliance with the SAP's recommendations, the SAP will provide a letter to the City stating such and shall include the follow-up testing plan for the driver. If the driver has not shown successful compliance with the SAP's recommendations, the SAP will provide a letter to the City stating such and the driver will not be considered for rehire until the driver has shown successful compliance with the SAP's recommendations.

All costs associated with the evaluations, rehabilitation, pre-employment testing and follow-up testing will be the responsibility of the driver. The pre-employment and follow-up testing costs shall be pre-paid by the City, to be immediately reimbursed by the driver.

**(Ord. No. 01-15; 08-13-01)**