

CITY OF SPRINGFIELD DRUG AND ALCOHOL TESTING POLICY

The City of Springfield is dedicated to providing safe, dependable and economical services to our citizens. City of Springfield employees are our most valuable resource and it is our goal to provide a healthy, satisfying working environment which promotes personal opportunities for growth. In meeting these goals, it is our policy to: (1) ensure that employees are not impaired in their ability to perform assigned duties in a safe, productive and healthy manner; (2) create a workplace environment free from the adverse effects of drug and alcohol abuse or misuse; (3) prohibit the unlawful manufacture, distribution, dispensing, possession or use of controlled substances; and (4) to encourage employees to seek professional assistance anytime personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.

I. POLICY

The Federal Highway Administration of the U.S. Department of Transportation (DOT) has enacted regulations that mandate drug testing and alcohol testing for certain safety-sensitive positions and prohibit performance of safety-sensitive functions by employees when there is a positive test result.

The U.S. Department of Transportation has also issued regulations (49 CFR Part 40) setting standards for the collection and testing for drugs and alcohol. In addition, the DOT has issued regulations at 40 CFR Part 29, pursuant to "The Drug-Free Workplace Act of 1988", which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses. This policy incorporates those requirements for safety-sensitive employees and others when so noted. As federal requirements may be amended from time to time, such amendments will become part of the policy.

II. APPLICABILITY

All City employees are subject to the Drug-Free Workplace Act of 1988. Any employee who unlawfully manufactures, distributes, possesses or uses a controlled substance in the workplace shall be subject to disciplinary action, up to and including discharge.

This policy applies to all person employees by the City of Springfield who are required to possess a Commercial Drivers License (CDL) as part of their job duties and responsibilities or who are determined to perform safety-sensitive functions. Performing a safety-sensitive function means any time an employee is actually doing, ready to do or immediately available to do any of the following functions which involves a vehicle requiring a CDL to operate: driving a vehicle; waiting to be dispatched to drive a vehicle; loading or unloading a vehicle; remaining ready to drive a vehicle; inspecting or servicing a vehicle; repairing, obtaining assistance for, or attending a disabled vehicle; performing duties after an accident; and all other duties while the employee is in or on a City vehicle which requires a CDL to operate.

III. SUBSTANCES COVERED BY THIS ACT

A. Controlled Substances and Drugs. These are defined as any drug or substance identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812) and further defined at 21 CFR 1300.11 through 1300.15. This includes, but is not limited to, marijuana, cocaine, amphetamines, opiates and phencyclidine (PCP), as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration.

B. Prescription drugs. A prescription drug means that an individual has a current prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient's name, the name of the substance, quantity/amount to be taken and the period of authorization.

C. Over-the-Counter Drugs. These are defined as any legally available, non-prescription medication.

IV. PROHIBITED CONDUCT

A. Manufacture, Distribution, Dispensing, Possession and/or Use of Controlled Substances and Drugs. Any employee engaging in the manufacture, distribution, dispensing, possession or use of prohibited substances on City premises, in City vehicles, in uniform or while on City business will be subject to disciplinary action up to and including discharge. Use will be determined by the minimum thresholds as defined by the U.S. Department of Transportation. The City recognizes that confidentiality is fundamental to a successful program that deals with problems of drug and alcohol abuse. As such, it has not been, nor will it be the City's practice to use drug and alcohol testing or the Employee Assistance Program as an investigative tool for law enforcement. However, the City will not ignore its obligation to provide information which is mandated to be provided to a government agency pursuant to statutory or regulatory strictures, or such information subject to a valid subpoena issued by a federal, state or administrative entity.

B. Alcohol use. No employee shall report for duty or remain on duty when his or her ability to perform assigned functions is adversely affected by alcohol. No employee shall use alcohol within four (4) hours before reporting to duty, while on duty, during the hours they are scheduled to be on call or while performing safety-sensitive functions.

C. Improper Use. The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance that carries a warning label that indicates that mental functioning, motor skills or judgment may be adversely affected shall be reported in writing to supervisory personnel. Medical advice should be sought, as appropriate, before performing duties.

V. TESTING FOR PROHIBITED SUBSTANCES

All safety-sensitive employees shall be subject to testing as follows:

A. Pre-Employment – All CDL and/or safety-sensitive position applicants, as defined by this policy, shall undergo drug testing after receiving a conditional offer of employment. Receipt by the City of Springfield of a negative test result is required prior to employment. A positive drug test will disqualify an applicant for employment.

B. Medical Examinations- All medical examinations administered by the City of Springfield for pre-employment shall include a drug test. Results may not be disclosed for criminal prosecutions. Employees who are promoted, demoted or transferred from a non-safety to a safety-sensitive covered position shall be tested before being moved into the new position.

Any individual who tests positive, as defined in 40 CFR Part 40, will not be considered for employment for the same position or other positions covered by this policy for at least twelve (12) months from the date of the test, unless he/she provides documentation of a negative drug test and is released by a Substance Abuse Professional (SAP)

C. Reasonable Suspicion Testing. All employees may be subject to a fitness for-duty evaluation to include testing when there are reasons to believe that drug or alcohol use is present. A reasonable suspicion referral for testing will be made on the basis of documented observations. Examples of reasonable suspicion include, but are not limited to the following:

1. Unsatisfactory work performance or on-the-job behavior consistent with the appearance of the use of controlled substances, drugs, alcohol or other prohibited substances.
2. Physical signs and symptoms consistent with the appearance of the use of controlled substances, drugs, alcohol or other prohibited substances.
3. Evidence of the manufacture, distribution, dispensing, possession or use of controlled substances, drugs, alcohol or other prohibited substances.
4. Occurrence of a serious or potentially serious accident that may have been caused by human error.
5. Altercations (verbal or physical), assaults, flagrant disregard or violations of established safety, security or other operating procedures consistent with the appearance of the use of controlled substances, drugs, alcohol or other prohibited substances.

Reasonable suspicion determinations will be made by a supervisor who is trained to detect the signs and symptoms of drug and alcohol use and who reasonably concludes that an employee may be adversely affected or impaired. Drug or alcohol testing is

authorized only if the supervisor's observations are made during, just proceeding or just after the period of the work day that the employee is required to be in compliance with this policy. In addition, the employee may be directed to undergo reasonable suspicion testing while the employee is performing safety sensitive functions, just before or just after performing those functions.

Once a supervisor has reasonable suspicion to believe his or her employee is under the influence of drugs and/or alcohol, the supervisor must document his or her observations on the *Reasonable Suspicion Observation Form*. The employee will then be tested as soon as possible, but to exceed eight (8) hours for alcohol and thirty-two (32) hours for drug testing. If an alcohol test is not conducted within two (2) hour or a drug test is not conducted within eight (8) hours, a record shall be prepared and retained stating the reason why. If in eight (8) hours and alcohol test is still not conducted or in thirty-two (32) hours a drug test is still not conducted, all attempts shall cease and a complete record made of why it was not accomplished.

An employee shall be entitled to the presence of a union representative if he/she requests one and if the employee has reasonable grounds to believe that he/she may be subject to testing. The testing may proceed if a union representative is not available within one (1) hour.

D. Random Testing -Fifty percent (50%) of employees covered by this policy will be randomly selected each year for drug testing and 10% each year will be randomly selected for alcohol testing per the requirements of Section 382.305 and 49 CFR Part 40.

E. Post-Accident Testing -Employees will be required to undergo drug and/or alcohol testing if they are involved in an accident with a City of Springfield vehicle (regardless of whether or not the vehicle is in course of City business or service) or in the employee's personal vehicle while on City business and if the accident resulted in:

1. A fatality;
2. Injuries requiring transportation to a medical treatment facility (subject to reasonable suspicion testing).
3. Disabling damage to any vehicle or property (subject to reasonable suspicion testing);
4. A citation under state or local law for a moving traffic violation arising from the accident.

This may also apply to any employee who is a passenger in the vehicle involved in an accident and any other employee whose performance could have contributed to the accident.

Any employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test.

F. Return-to-Duty - Employees who have engaged in prohibited conduct regarding controlled substances will be required to take a return-to-duty drug or alcohol test and must sign a Return-to-Duty Contract as described in Section IX of this policy.

G. Follow-up -The employee may, at the discretion of the City, be given up to six (6) random tests during the first 12-month period upon returning to duty, as directed by the SAP. Unannounced follow-up tests may be conducted at anytime for up to five (5) years after an employee returns to duty following a positive test result. The SAP may terminate the requirements for follow-up testing anytime after the first six (6) tests have been administered if the SAP determines that such testing is no longer necessary.

VI. COMPLIANCE WITH TESTING REQUIREMENTS

Any employee subject to drug and alcohol testing who provides false information in connection with a test or who attempts to falsify test results through tampering, contamination, adulteration or substitution shall be removed from duty immediately and his or her employment terminated.

A refusal to test shall be considered a positive test. Refusal can include, but is not limited to, an inability to provide a specimen or sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior or physical absence resulting in the inability to conduct the test.

VII. EMPLOYEE ASSESSMENT

Any employee who tests positive for the presence of illegal drugs or alcohol above the minimum thresholds set forth in U.S. Department of Transportation regulations will be evaluated by a Substance Abuse Professional (SAP) chosen and paid for by the City of Springfield. A SAP is a licensed physical psychologist, social worker, Employee Assistance Program professional or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol-related disorders. The SAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited substance abuse or misuse. Assessment by a SAP does not shield an employee from disciplinary action or guarantee employment or reinstatement with the City of Springfield.

The cost of any treatment or rehabilitation services will be paid directly by the employee or his or her insurance provider. Employees will be allowed to use accumulated leave time to participate in the prescribed rehabilitation program, except accumulated leave time shall not be substituted for any suspension days the employee may be serving.

VII. DISCIPLINE

Upon the return of a positive drug or alcohol test, the following will result:

If an alcohol test results in an alcohol concentration of .02 or more, but less than .04:

- (1) First Offense – The employee will be immediately removed from the performance of safety-sensitive functions for at least twenty-four (24) hours or until the start of the employee's next regular shift (whichever is later). The employee will also receive a mandatory referral to the Employee Assistance Program (EAP).
- (2) Second Offense – The employee will be suspended for ten (10) days and must agree to sign a Return-to-Duty Contract.
- (3) Third Offense – The employee will be terminated.

If an alcohol test results in an alcohol concentration of .04 or greater:

- (1) First Offense – The employee will be subject to a minimum 15-day suspension without pay and possible discharge and must agree to sign a Return-to-Duty Contract, if applicable.
- (2) Second Offense – Any employee who tests positive for drugs and/or alcohol within five (5) years of his or her previous positive test will be automatically terminated.

If a drug test result is positive:

- (1) First Offense – The employee will be subject to a minimum 30-day suspension without pay and possible discharge and must agree to sign a Return-to-Duty Contract, if applicable.
- (2) Second Offense – Any employee who tests positive for drugs within five (5) years of his or her previous positive test will be automatically terminated.

All discipline and testing may be grieved under the grievance procedures as set forth in the applicable collective bargaining agreement.

IX. RETURN-TO-DUTY CONTRACTS

An employee who is allowed to return to duty after engaging in prohibited conduct must agree to a Return-to-Duty Contract. The contract shall include, but is not limited to the following:

- (1) A return-to-work statement from an approved Substance Abuse Professional (SAP) for DOT Employee and/ or Licensed Professional (LP) for NON DOT employee prior to returning to work.
- (2) An agreement from the employee to complete any recommended treatment or rehabilitation programs.

- (3) A negative test for drugs and/or a less than .02 test result for alcohol prior to returning to work.
- (4) An agreement to unannounced frequent follow-up testing.
- (5) Failure to complete provisions of this "Return to Duty" contract within thirty (30) days may led to further disciplinary action up to and including termination. While on unpaid leave, employee is responsible for payment of any missed payroll deductions.

Violation of the Return-to-Work Contract is grounds for discharge.

X. CONFIDENTIALITY

Information and records relating to positive drug test results, drug and/or alcohol dependencies and legitimate medical explanations provided by the Medical Review Office (MRO) shall be held confidential. Such records and explanations may be disclosed among directors, managers and/or supervisors on a need-to-know basis and may be disclosed where relevant to a grievance, Civil Service hearing, charge, claim or other legal proceeding initiated by or on behalf of an employee or applicant.

Employees and applicants shall, upon written request, have access to their own results and to records relating to them which the MRO provides to the City or receives from the City's laboratory. Any employee who violates confidentiality under this policy shall be subject to disciplinary action.

XI. ADMINISTRATION OF POLICY

The Office of Human Resources will be responsible for the dissemination of this policy. The Office will administer this policy and maintain all relevant records. Any questions regarding this policy should be directed to the Office of Human Resources at 789-2446.

APPENDIX II

SUMMARY OF ALCOHOL TESTING PROCEDURES

1. If an employee is subject to alcohol testing, he or she will either be driven to a City designated facility for the testing procedure or the procedure will be conducted on-site. The employee will have to verify his or her identity and certify he or she has been correctly identified on a DOT Breath Testing Form.
2. The testing will be conducted in a private setting by trained technicians ("BATS"), using DOT-approved devices ("EBT's") that display and print test results. The EBT's shall be regularly calibrated.
3. A screening test will be done first. Using a new mouthpiece, the employee will be required to exhale until the BAT tells him or her to stop. The BAT will show the employee the results. The printed results must match the displayed results, or the test is invalid. If the screen test is less than .02, the employee will have passed the alcohol test.
4. If the result is .02 or greater, the employee will have to take a confirmation test after waiting fifteen (15) minutes. During that waiting period, for the employee's benefit, he or she should not put anything in his or her mouth or belch (so that the confirmation test will not measure any alcohol fumes in the employee's mouth).
5. Before (and after) the confirmation test, the BAT shall run air blank tests to ensure the EBT is working correctly. If they do not measure 0.00, the employee will be tested using another EBT or testing will be canceled.
6. For the confirmation test, the employee will also be required to exhale until the BAT tells him or her to stop. The employee shall be shown the printed and displayed results. If they do not match, the test will be invalid. The results of the confirmation test, not the screen test, will determine what happens to the employee. A result under .02 means the employee has passed. If the result is .02 or greater, or if the employee refuses to cooperate, the employee will be subject to the discipline as described in the City's policy.
7. If the employee fails to provide an adequate breath specimen, the BAT shall require him or her to try again. If the employee still does not provide an adequate specimen, the failure will be noted on the Breath Testing Form, and the employee shall be required to see a doctor as soon as possible. If the doctor decides it is highly probable that a medical condition prevented the employee from providing a specimen, the employee will not be disciplined for refusing to cooperate. If the doctor determines no such medical condition exists, the employee will be subject to discipline as set forth in Section VI of this policy.

APPENDIX III

SUMMARY OF CONTROLLED SUBSTANCE (DRUG) TESTING PROCEDURES

1. If an employee is subject to drug testing, he or she shall have to provide a urine specimen. The employee will either be driven to a City designated facility for testing procedure or the procedure will be conducted on-site. The employee will be required to verify his or her identity prior to submitting to the test. The urine specimen will be collected by a trained collection site person ("CSP") in accordance with DOT rules, using a DOT Custody and Control Form.

2. The employee will be given a collection container and allowed to provide a urine specimen in private unless: the employee submits a specimen which is abnormally cold or hot, but not consistent with the employee's oral body temperature; the employee submits an apparently altered or adulterated specimen; the employee's prior specimen was abnormal; or the employee is taking a follow-up test after previously failing a test.

3. If the employee does not provide a large enough specimen (at least 45 ml), the CSP will discard the specimen, require the employee to drink additional fluids, wait up to three (3) hours, and try again to provide a specimen. If the employee still does not provide an adequate specimen, testing will stop and the employee will be required to see a doctor as soon as possible. The doctor will decide whether the employee was legitimately unable to provide a specimen or refused to cooperate. If it is found that the employee refused to cooperate, he or she will be subject to discipline as set forth in Section VI of this policy.

4. If the employee provides an adequate specimen, it will be poured into two (2) bottles, which will be sealed and labeled with a unique specimen number in the employee's presence. The employee will then be required to initial them. The employee and the CSP shall also be required to fill out portions of a DOT Custody & Control form that identifies the employee, the City and the specimen. Employees should ensure that the entries on the form are accurate.

5. Both specimen bottles will be sent to a federally-certified laboratory for analysis. The bottle that contains the larger amount of urine will be tested. The lab will check the employee's specimen to see if it has been altered, diluted or adulterated. If the specimen appears normal, the lab will run a screen test on it. If the screen test is negative, it shall report that the employee has passed the drug test. If the screen test is positive, the lab shall analyze the specimen using Gas Chromatography/Mass Spectrometry. It shall send the results to a Medical Review Officer ("MRO").

6. The MRO is a trained doctor who shall review test results and the chain of custody and to evaluate any explanation the employee may have for his or her drug test results. The MRO shall telephone the employee at the telephone number the employee listed on the Custody & Control form. If the employee believes a mistake was made at the collection site or lab or on the Custody & Control form, or that the lab results are caused by foods or medicines, the employee must promptly inform the MRO. The employee must cooperate with the MRO. If the employee does not, the City will be

notified and the employee may be removed from duty and suspended pursuant to the City's independent authority (or not hired, if the individual is an applicant).

7. If the employee desires his or her split specimen to be tested by another certified lab, the employee shall tell the MRO within 72 hours of notice of the drug test results. The cost of the test will be incurred by the employee. If that second lab does not find any evidence of the drugs the first lab found or the split specimen cannot be tested, the MRO shall cancel the test results and the employee will not be subject to discipline. The MRO shall disclose the results of any split specimen test to the City.

8. After completing the medical review process, the MRO shall send the test results to the Director of Human Resources. The employee may obtain a copy of the results from him or her.