

RESOLUTION 22-09

A RESOLUTION OF THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF WHITE HOUSE, TENNESSEE, APPROVING CERTAIN AMENDMENTS AND REVISIONS TO THE PERSONNEL MANUAL.

WHEREAS, the City maintains a consistent set of adopted rules and procedures for the administration of personnel matters; and

WHEREAS, the City Administrator is charged with the duty to review the adopted policies and procedures that govern the City's personnel system and make recommendations of updates and improvements to the procedures; and

WHEREAS, the City has engaged the services of a professionally trained Human Resources Director to advise on personnel matters, including improvements to language contained in the Personnel Manual; and


WHEREAS, this professional has made a number of recommendations to revise the personnel rules and procedures; and

WHEREAS, the Board of Mayor and Aldermen wish to amend the current personnel manual;

NOW, THEREFORE, the Board of Mayor and Aldermen of the City of White House do hereby resolve that the Personnel Manual is hereby amended by changing and updating the City of White House Personnel Manual.

This resolution shall be effective upon passage.

Adopted this 15th day of September 2022.



Farris H. Bibb, Mayor

ATTEST:



Derek Watson, City Recorder

4.7. OVERTIME PAY

Overtime work will be compensated in accordance with the provisions of the FLSA at a rate of one-and-one half the non-exempt employee's regular rate after the employee has completed 40 hours actually worked in a workweek. Vacation, sick leave and holidays are not included in the computations for hours worked. Department Heads must authorize any employee overtime work in advance.

Firefighter Overtime: For firefighters on a twenty-four-hour schedule, overtime is calculated on any hours above 106 in a 14-day work period.

Police Officer Overtime: For police officers on a twelve-hour schedule, overtime is calculated on any hours worked above 84 hours in a 14-day work period. All "grant" funded overtime will be paid at a rate of \$50.00 per hour.

6.6. WEATHER EMERGENCY LEAVE

In the event of a weather-related emergency that results in the closing of city offices, the City Administrator is authorized to provide weather emergency leave to employees. Any weather emergency leave provided to employees must be used within ~~twelve (12)~~ three (3) months of the City Administrator's authorization.

7.2. DRUG FREE WORKPLACE

7.2.1. GENERAL RULES

~~7.2.1.1. City employees shall not take or be under the influence of any drug unless prescribed by the employee's licensed physician. Employees who are required to take prescribed or over the counter medication shall notify the immediate supervisor should the medication produce any adverse effects which might limit the employee's ability to perform their job.~~

~~7.2.1.2. City employees are prohibited from the use, possession and sale of drugs, alcohol or any other controlled substance on City property or in City vehicles.~~

~~7.2.1.3. All property belonging to the City is subject to inspection at any time without notice, as there is no expectation of privacy.~~

~~Property includes, but is not limited to, vehicles, desks, containers, files and storage lockers.~~

~~Employees assigned lockers (that are locked by the employee) are also subject to inspection.~~

~~7.2.1.4. Employees who have reason to believe another employee is using alcohol or illegal drugs while on duty must report the facts and circumstances immediately to their supervisor or Human Resources. Failure to do so may result in disciplinary action.~~

~~7.2.1.5. Failure to comply with the intent or provisions of this general order may be used as grounds for disciplinary action.~~

7.2.2. EMPLOYEE TESTING

~~Current City employees will be required to undergo drug and alcohol testing after a work related accident or incident within eight (8) hours; if there is reasonable suspicion that the employee is under the influence of drugs or alcohol during working hours within eight (8) hours; or if drawn during random selection per the time limits listed below. Only employees holding safety sensitive positions are subject to random alcohol and drug testing. Safety sensitive positions include police officers, firefighters, positions requiring a commercial driver's license, public works equipment operators, wastewater plant operations.~~

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random urine drug testing and/or alcohol testing and the actual presentation for specimen collection.

Random donor selection dates will be unannounced with unpredictable frequency. Some may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e., vacation, sick day, out of town, work-related causes, etc.) to produce a specimen on the date random testing occurs, the City may omit that employee from that random testing or await the employee's return to work.

Supervisors are required to detail in writing the specific facts, symptoms, or observations that formed the basis for their determination that reasonable suspicion existed to warrant the testing of an employee on the Supervisor Checklist for Alcohol/Substance Abuse form. This documentation form shall be forwarded to the appropriate Department Head who shall immediately forward the information to Human Resources.

If an employee is required to submit to reasonable suspicion drug and/or alcohol testing, the employee's supervisor, Department Head, or Human Resources shall drive the employee to the testing center if needed. The employee shall not be allowed to return to work until the test results are received by Human Resources. The employee will be required to use any available paid time off until test results are received. The employee shall not be allowed to drive his/her personal vehicle from City property prior to receiving the results.

7.2.3. REFUSAL TO CONSENT

An employee who refuses to consent to a drug and alcohol test after a work-related accident or incident, if drawn during random selection, or when reasonable suspicion of drug or alcohol use has been identified will be terminated.

7.2.4. CONFIRMATION OF TEST RESULTS

An employee or job applicant whose drug test yields a positive result, indicating the presence of drugs or alcohol, shall be given the opportunity to speak with the Medical Review Officer prior to a final determination. Test results are then forwarded to Human Resources for appropriate action.

7.2.5. CONSEQUENCE OF A CONFIRMING POSITIVE TEST RESULT: JOB APPLICANTS

Job applicants will be denied employment with the City if their pre-employment test result has been confirmed positive.

7.2.6. CONSEQUENCES OF A CONFIRMING POSITIVE TEST RESULT: CURRENT EMPLOYEES

Upon confirmation of an employee's positive test result where the employee has been employed less than two years, he/she is subject to termination.

Employees testing positive who have been employed with the City longer than two years will be required to attend an Employee Assistance Program provided through the City's healthcare provider. Failure to complete the recommended program constitutes immediate termination. Employees will also be subject to random follow-up testing for a period of up to two years after completion of the program.

7.2.7. CONFIDENTIALITY OF TEST RESULTS

To the extent allowed under the Tennessee Open Records Law, all information from an employee's or applicant's drug and alcohol test is confidential and only those individuals with a need to know are to be informed of test results.

7.2.8. CLEARINGHOUSE REPORTING REQUIREMENTS

As part of the continuing efforts to promote safe roadways and to ensure only qualified CDL drivers are performing safety-sensitive duties, a database was created that will contain pertinent information containing CDL drivers' drug

and alcohol testing violations. Employers will be required to query the data base on an annual basis for current employees and as part of the pre-employment screening process for all covered prospective employees. The following outlines the responsibilities for the reporting entity and when and what information is required to be reported to the clearinghouse. They are as follows:

- Prospective/Current Employer of CDL Driver must report within 3 business days:
- An alcohol confirmation test with a concentration of 0.04 or higher.
- Refusal to test (alcohol) as specified in 49 CFR 40.261.
- Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191.
- Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance.
- Negative return to duty test results (drug and alcohol testing, as applicable)
- Completion of follow-up testing.
- Medical Review Officer (MRO) must report within 2 business day:
- Verified positive, adulterated, or substituted drug test result.
- Refusal to test (drug) requiring a determination by the MRO as specified in 49 CFR 40.191.
- Substance Abuse Professional (SAP) must report within one business day: Successful completion of treatment and/or education and the determination of eligibility for return to duty testing (identification of driver and date the initial assessment was initiated).

7.2. DRUG AND ALCOHOL TESTING POLICY

7.2.1 PURPOSE

The purpose and goal of this program is to send a clear message that the use of alcohol and drugs in the workplace is prohibited. Also, this program is to encourage our employees to voluntarily seek help with alcohol and drug problems.

The city recognizes that the use and abuse of drugs and alcohol in today's society is a serious problem that may involve the workplace. It is the intent of the city to provide all employees with a safe and secure workplace in which each person can perform his/her duties in an environment that promotes individual health and workplace efficiency. Employees of the city are public employees and must foster the public trust by preserving the employee and employer's reputation for integrity, honesty, and responsibility.

To provide a safe, healthy, productive and drug-free working environment for its employees to properly conduct the public business, the city has adopted this drug and alcohol testing policy that balances our respect for individuals with the need to maintain an alcohol and drug free environment. This policy complies with the Federal Drug-Free Workplace Act of 1988, which ensures employees the right to work in an alcohol and drug-free environment and to work with persons free from the effects of alcohol and drugs; Federal Highway Administration (FHWA) rules, which require drug and alcohol testing for persons required to have a commercial driver's license (CDL); Division of Transportation (DOT) rules, which include procedures for urine drug testing and breath alcohol testing; and the Omnibus Transportation Employee Testing Act of 1991, which requires alcohol and drug testing of safety-sensitive employees in the aviation, motor carrier, railroad, pipeline, commercial marine, and mass transit industries. In the case of this policy, the Omnibus Transportation Employee Testing Act of 1991 is most significant with its additional requirement of using the "split specimen" approach to alcohol testing, which provides an extra safeguard for employees. The types of tests required are: pre-employment (for safety-sensitive positions), transfer (for certain safety sensitive positions), reasonable suspicion, post-accident, random (for safety-sensitive positions), return-to-duty, and follow-up post rehabilitation testing.

Safety-sensitive positions include police officers, firefighters, positions requiring a commercial driver's license, public works and stormwater equipment operators, and wastewater plant and collections operators.

The city has no intention of interfering with the private lives of its employees unless involvement with alcohol or other drugs off the job affects job performance or public safety. This policy does not preclude the appropriate use of legally prescribed medication that does not adversely affect the mental, physical, or emotional ability of the employee to safely and efficiently perform his/her duties. It is the employee's responsibility to inform the proper supervisory personnel of his/her use of any legally prescribed medication that may impair his/her ability to safely perform the job

before the employee goes on duty or performs any work. Any information obtained from the employee's disclosure will be maintained and treated in accordance with the ADA and other applicable laws.

It is the policy of the city that the use of alcohol and illegal drugs by its employees, and impairment in the workplace due to the use of drugs and/or alcohol is prohibited and will not be tolerated. Engaging in prohibited and/or illegal conduct may lead to disciplinary action. Prohibited and/or illegal conduct includes, but is not limited to:

1. being on duty or performing work in or on city property while under the influence of drugs and/or alcohol;
2. engaging in the manufacture, sale, distribution, use, or unauthorized possession of illegal drugs at any time and of alcohol while on duty or while in or on city property;
3. refusing or failing a drug and/or alcohol test administered under this policy;
4. providing an adulterated, altered, or substituted specimen for testing;
5. use of alcohol within four hours prior to reporting for duty on schedule or use of alcohol while on-call for duty; and
6. use of alcohol or drugs within eight hours following an accident (incident) if the employee's involvement has not been discounted as a contributing factor in the accident (incident) or until the employee has successfully completed drug and/or alcohol testing procedures.

In order to educate the employees about the dangers of drug and/or alcohol abuse, the city shall sponsor annual information and education program for all employees and supervisors. Information will be provided on the signs and symptoms of drugs and/or alcohol abuse; the effects of drug and/or alcohol abuse on an individual's health, work and personal life; the city's policy regarding drugs and/or alcohol; and the availability of counseling. The Human Resources Director has been designated as the city official responsible for answering questions regarding this policy and its implementation.

All city owned or furnished property is for official use only and may be subject to inspection at any time without notice. There is no expectation of privacy in such property. Property includes, but is not limited to: vehicles, desks, containers, files, city provided cell phones, computers, and lockers. Employee-assigned lockers that are locked by the employee are also subject to inspection by the employee's supervisor in the presence of the employee after reasonable advance notice to the employee, unless such notice is waived by the City Administrator due to reasonable cause to suspect criminal activity.

Provisions of this policy apply to all employees of the city, with the exception of pre-employment, transfer, and random selection testing, which applies only to safety-sensitive positions. The policy also applies to all applicants who have been given a conditional offer of employment.

7.2.1.1. Consent Form

Before a drug and/or alcohol test is administered, employees and applicants will be asked to sign a consent form authorizing the test and permitting release of test results to the laboratory, medical review officer (MRO), Human Resources Director, or his/her designee. The consent form also provides authorization for certified or licensed attending medical personnel to take and have analyzed appropriate specimens to determine if drugs or alcohol were present in the employee's system. In the event that the applicant or employee is a minor, parental consent for drug testing will be required.

7.2.1.2. Compliance with Substance Abuse Policy

Compliance with the substance abuse policy is a condition of employment. The failure or refusal by an applicant or employee to cooperate fully by signing necessary consent forms or other required documents, or the failure or refusal to submit to any test or any procedure under this policy in a timely manner may be grounds for refusal to hire or for disciplinary action up to and including immediate termination of employment. The submission by an applicant or employee of a urine sample that is not his/her own or is adulterated may be grounds for refusal to hire or for disciplinary action up to and including immediate termination of employment.

7.2.1.3. Duty to Report Convictions

Any employee convicted of violating a criminal drug statute must inform the director of his/her department of such conviction (including pleas of guilty and *nolo contendere*) in writing within five calendar days of the conviction occurring. The organization will take appropriate action within 30 days of notification. Failure to so inform the city subjects the employee to disciplinary action up to and including termination of employment for the first offense. If appropriate, the city will notify the federal contracting officer pursuant to applicable provisions of the Drug-Free Workplace Act and the Omnibus Transportation Employee Testing Act.

7.2.1.4. Drug Testing Identification Requirement

When required to appear for drug testing, an applicant or employee must present a valid government issued photo ID to the appropriate collection personnel. Failure to present a valid, government issued photo ID is equivalent to refusing to take the test, resulting in denial of employment or disciplinary action up to and including immediate termination of employment.

7.2.1. DRUG TESTING

Under the drug-free workplace policy there are various reasons for the implementation of drug tests and include but are not limited to the following:

1. Deter employees from abusing drugs and alcohol.
2. Prevent the hiring of individuals who use illegal drugs.
3. Provide early identification and referral of employees who have drug and/or alcohol problems.
4. Provide a safe workplace for other employees.
5. Ensure general public safety and instill citizen confidence that employees are working safely.

The city's drug testing program will follow the Substance Abuse and Mental Health Services Administrations' (SAMHSA) mandatory guidelines for workplace drug testing which include having a MRO review the test. Testing will be done for those drugs identified in the SAMHSA guidelines (marijuana, cocaine, opiates, amphetamines and phencyclidine) for which drug laboratories are certified.

7.2.1.1. TYPES OF TESTS

Pre-employment

All applicants for employment in safety-sensitive positions who have received a conditional offer of employment with the city must submit to a drug test before receiving a final offer of employment.

Transfer/Promotion

Employees transferring/being promoted to a safety sensitive position shall undergo drug testing. If the employee tests positive, the offer of the transfer or promotion will be withdrawn and the employee may be disciplined, up to and including termination, and/or required to participate in rehabilitation as described in this policy.

Post-Accident/Post Incident

Following any workplace accident (incident) determined by supervisory personnel of the city to have resulted in property or environmental damage, or personal injury, including but not limited to a fatality or human injury requiring medical treatment, or any employee whose performance either contributed to the accident (incident), or cannot be discounted as a contributing factor to the accident (incident), and who is reasonably suspected of possible drug use as determined during a routine post-accident (post-incident) investigation, or who receives a citation for a moving violation arising from the accident (incident) will be required to take a post-accident (post-incident) drug test.

Post-accident (post-incident) testing shall be carried out within eight hours following the accident (incident). Urine collection for post-accident (post-incident) testing may be monitored or observed at the established collection site(s).

Following all workplace accidents (incidents) where drug testing is to be performed, unless otherwise specified by the department head, any affected employees who are ambulatory will be taken by a supervisor or designated personnel of the city to the designated urine specimen collection site. In the event of an accident (incident) occurring after regular work hours, the employee(s) will be taken to the testing site as soon as is practical within the time limits indicated above. No employee shall consume drugs prior to completing the post-accident (post-incident) testing procedures.

Any affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following an accident (incident) shall consent to the obtaining of specimens for drug testing by qualified, licensed attending medical personnel and consent to the testing of the specimens. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the MRO of the city appropriate and necessary information or records that would indicate only whether or not specified prohibited drugs (and what amounts) were found in the employee's system. Each employee shall grant consent at the implementation date of the substance abuse policy of the city or upon hiring following the implementation date.

Post-accident (post-incident) urinary testing may be impossible for unconscious, seriously injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if drugs were present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure to do post-accident (post-incident) testing within eight hours must be fully documented by the attending medical personnel.

In instances where post-accident (post-incident) testing is to be performed, the city reserves the right to direct the MRO to instruct the designated laboratory to perform additional testing on submitted urine specimens for possible illegal/illegitimate substances. Any testing for additional substances listed under the Tennessee Drug Control Act of 1989 as amended shall be performed at the urinary cutoff level that is normally used for those specific substances by the laboratory selected.

Testing Based on Reasonable Suspicion

Reasonable suspicion testing is also referred to as probable cause testing and is required for any employee where there is reasonable suspicion to believe the employee is using or is under the influence of drugs.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used drugs. This belief should be based on recent, physical, behavioral or performance indicators of possible drug use. Possible causes requiring a testing of reasonable suspicion include specific, objective, and articulable facts concerning appearance, behavior, speech, body odors or performance. One supervisor who has received drug detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior. Among other things, such facts and inferences may be based upon, but not limited to, the following, as provided by Tennessee Code Annotated § 50-9-103 and Tenn. Comp. R. and Reg. 0800-02-12-.03(21)

- (A) Observable phenomena while at work such as direct observation of substance abuse or of the physical symptoms or manifestations of being impaired due to substance abuse;
- (B) Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;
- (C) A report of substance abuse provided by a reliable and credible source;
- (D) Evidence that an individual has tampered with any substance abuse test during his or her employment with the city;
- (E) Information that an employee has caused or contributed to an accident while at work;

- (F) Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the employer's premises or while operating the employer's vehicle, machinery, or equipment; or
- (G) Involvement in an accident which results in an injury to another individual or in property damage exceeding five thousand dollars (\$5,000.00), or such minimum amount as set by U.S.DOT Guidelines, if less.

Supervisory personnel of the city making a determination to subject any employee to drug testing based on reasonable suspicion are required to detail in writing the specific facts, symptoms, or observations that reasonable suspicion existed to warrant the testing of the employee on the Supervisor checklist for Alcohol/Substance Abuse form. This form shall be forwarded to the appropriate Department Head who shall immediately forward the form to the Human Resources Director within two (2) hours of the decision to test. Urine collection for reasonable suspicion testing may be monitored or observed.

If an employee is required to submit to reasonable suspicion drug and/or alcohol testing, the employee's supervisor, Department Head, or Human Resources shall drive the employee to the testing center if needed. The employee shall not be allowed to return to work until the test results are received by Human Resources. The employee will be required to use any available paid time off until test results are received. The employee shall not be allowed to drive his/her personal vehicle from City property prior to receiving the results.

Random Testing – Safety Sensitive Positions

Random testing shall be unannounced. Every employee in the random testing pool has an equal chance of being chosen for testing every time a random selection is drawn. Only employees of the city holding safety sensitive positions are subject to random drug testing. Safety-sensitive positions include police officers, firefighters, positions requiring a commercial driver's license public works and stormwater equipment operators, and wastewater plant and collections operations. While positions requiring a commercial driver's license are also considered safety sensitive positions, CDL holders will be tested in a separate pool pursuant to federal requirements at set forth in a separate section of this policy.

A minimum of fifteen (15) minutes and a maximum of two (2) hours will be allowed between notification of an employee's selection for random urine drug testing and the actual presentation for specimen collection.

Random donor selection dates will be unannounced and occur with regular frequency. Some employees may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable to produce a specimen (i.e., vacation, sick day, out of town, work-related causes, etc.) on the date random testing occurs, the city may omit that employee from random testing or await the employee's return to work.

Random Testing – Commercial Driver's License Holders

Positions requiring a commercial driver's license ("CDL") are considered safety sensitive positions and will be tested in a separate pool pursuant to federal requirements.

Random testing shall be unannounced. Every employee in the CDL random testing pool has an equal chance of being chosen for testing every time a random selection is drawn. It is the policy of the city to annually perform random tests for drugs on at least fifty percent (50%) of the total number of drivers required to possess or obtain a commercial driver's license (CDL).

A minimum of fifteen (15) minutes and a maximum of two (2) hours will be allowed between notification of an employee's selection for random urine drug testing and the actual presentation for specimen collection.

Random donor selection dates will be unannounced and occur with regular frequency. Some employees may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable to produce a specimen (i.e., vacation, sick day, out of town, work-related causes, etc.) on the date random testing occurs, the city may omit that employee from random testing or await the employee's return to work.

Return-to-Duty and Follow-Up

Any employee of the city who has violated the prohibited drug conduct standards must submit to a return-to-duty test, as provided in the return-to-work agreement. Follow-up tests, also referred to as post rehabilitation testing, will be unannounced, and provided in the return-to-work agreement. Follow-up testing may be extended for up to twelve (12) months following return to duty for safety-sensitive positions.

The employee may be required to pay for his or her return-to-duty and follow-up tests accordingly.

Testing will also be performed on employees in safety-sensitive positions returning from leave or special assignment in excess of six (6) months.

7.2.1.2. PROHIBITED DRUGS

The substances for which testing is commonly performed are those that the National Institute for Drug Abuse (NIDA) designated as "illegal" drugs for purposes of the Federal Drug Testing programs. All drug results will be reported to the MRO. If verified by the MRO, they will be reported to the **Human Resources Director**. The following is a list of drugs for which tests will be routinely conducted:

1. Amphetamines
2. Marijuana (cannabinoids)
3. Cocaine (benzoyllecgonine)
4. Opiates (codeine, morphine, heroin)
5. PCP (phencyclidine)
6. 6-Acetylmorphine (heroin)
7. MDMA (ecstasy)

The city may test for additional substances listed under the Tennessee Drug Control Act of 1989 (as amended).

7.2.1.3. COLLECTION PROCEDURES

Testing will be accomplished as non-intrusively as possible. Affected employees, except in cases of random testing, will be taken by a supervisor or designated personnel of the city to a drug test collection facility selected by the city where a urine sample will be taken from the employee in private. The urine sample will be immediately sealed by personnel overseeing the specimen collection after first being examined by these personnel for signs of alteration, adulteration, or substitution. The sample will be placed in a secure mailing container. The employee will be asked to complete the chain-of-custody form to accompany the sample to a laboratory selected by the city to perform the analysis on collected urine samples. The chain-of-custody form is required in order to prove that a sample that tested positive for drugs or alcohol is actually the sample from the employee who is being tested.

7.2.1.4. DRUG TESTING LABORATORY STANDARDS AND PROCEDURES

The Department of Health and Human Services (DHHS)/Substance Abuse and Mental Health Services Administration (SAMHSA) has established standardized procedures and cutoff levels that are followed by several federal agencies, DOT and various private and governmental regulations. All collected urine samples will be sent to an authorized laboratory that is certified and monitored by the federal Department of Health and Human Services (DHHS).

The Omnibus Act requires that drug testing procedures include split specimen procedures. Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Both bottles are sent to a laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence of drugs, the employee has 72 hours to request sending the split specimen to another federal Department of Health and Human Services (DHHS) certified laboratory for analysis. The employee will be required to pay for his or her split specimen test(s).

For the employee's protection, the results of the analysis will be confidential except for the testing laboratory. After the MRO has determined a positive test result, the employee will be notified, and the MRO will notify the Human Resources Director.

7.2.1.5. REPORTING AND REVIEWING

The city will designate a MRO to receive, report, and file testing information transmitted by the laboratory. This person shall be a licensed physician with knowledge of substance abuse disorders.

1. The laboratory shall report test results only to the designated MRO, who will review them in accordance with accepted guidelines and the procedures adopted by the city.
2. Reports from the laboratory to the MRO shall be in writing or by fax. The MRO may talk with the employee by telephone upon exchange of acceptable identification.
3. The testing laboratory, collection site personnel, and MRO shall maintain security over the testing data and limit access to such information to the following: the respective department head, the Human Resources Director, and the employee.
4. Neither the city, the laboratory, nor the MRO shall disclose any drug test results to any other person except under written authorization from the affected employee, unless such results are necessary in the process of resolution of accident (incident) investigations, requested by court order, or required to be released to parties (i.e., DOT, the Tennessee Department of Labor, etc.) having legitimate right-to-know as determined by the city attorney.

7.2.2. ALCOHOL TESTING

An applicant or employee must carry and present a valid government issued photo ID to the appropriate personnel during testing. Failure to present photo identification is equivalent to refusing to take the test.

7.2.1.1. TYPES OF TESTS

Post –Accident/Post Incident Testing

Following any workplace accident (incident) determined by supervisory personnel of the city to have resulted in property or environmental damage or in personal injury, including but not limited to a fatality or human injury requiring medical treatment, each employee whose performance either contributed to the accident (incident) or cannot be discounted as a contributing factor to the accident (incident) and who is reasonably suspected of possible alcohol use as determined during a routine post-accident (post-incident) investigation or who receives a citation for a moving violating arising from the accident may be required to take a post-accident (post-incident) alcohol test.

Post-accident (post-incident) testing shall be carried out within two hours following the accident (incident) under the following circumstances.

Following all workplace accidents (incidents) where alcohol testing is to be performed, unless otherwise specified by the Human Resources Director affected employees who are ambulatory will be taken by a supervisor or designated personnel of the city to the designated breath alcohol test site for a breath alcohol test within two hours following the accident. In the event of an accident (incident) occurring after regular

work hours, the employee(s) will be taken to the testing site within (2) two hours. No employee shall consume alcohol prior to completing the post-accident (post-incident) testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident (post-incident) testing. Any unreasonable delay in appearing for alcohol testing shall be considered a refusal to cooperate with the substance abuse program of the city and shall result in disciplinary action.

An affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident (incident) shall consent to the obtaining of specimens for alcohol testing by qualified, licensed attending medical personnel and consent to specimen testing. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the MRO of the city appropriate and necessary information or records that would indicate only whether or not specified prohibited alcohol (and what amount) was found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the city or upon hiring following the implementation date.

Post-accident (post-incident) breath alcohol testing may be impossible for unconscious, seriously injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if alcohol was present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure to do post-accident (post-incident) testing within two hours must be fully documented by the attending medical personnel.

Testing Based on Reasonable Suspicion

An alcohol test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of alcohol.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used alcohol. This belief should be based on recent physical, behavioral, or performance indicators of possible alcohol use. One supervisor who has received alcohol detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the city making a determination to subject any employee to drug testing based on reasonable suspicion are required to detail in writing the specific facts, symptoms, or observations that reasonable suspicion existed to warrant the testing of the employee on the Supervisor checklist for Alcohol/Substance Abuse form. This form shall be forwarded to the appropriate Department Head who shall immediately forward the form to the Human Resources Director within two (2) hours of the decision to test. Urine collection for reasonable suspicion testing may be monitored or observed.

Random Testing – Commercial Driver's License Holders

Positions requiring a commercial driver's license are considered safety-sensitive positions and will be tested in a separate pool pursuant to federal requirements. It is the policy of the city to annually random test for alcohol at least ten percent (10%) of the total number of drivers required to possess or obtain a commercial driver's license (CDL).

A minimum of fifteen (15) minutes and a maximum of two (2) hours will be allowed between notification of an employee's selection for random alcohol testing and the actual presentation for testing.

Random test dates will be unannounced with regular frequency. Some employees may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable to produce a specimen (i.e., vacation, sick day, out of town, work-related causes, etc.) on the date random testing occurs, the city may omit that employee from random testing or await the employee's return to work.

Return-to-Duty and Follow-Up

Any employee of the city who has violated the prohibited alcohol conduct standards must submit to a return-to-duty test, as provided in the return-to-work agreement. Follow-up tests, also referred to as post rehabilitation testing, will be unannounced, and provided in the return-to-work agreement. Follow-up testing may be extended for up to twelve (12) months following return to duty for safety-sensitive positions.

The employee may be required to pay for his or her return-to-duty and follow-up tests accordingly.

7.2.1.1. ALCOHOL TESTING PROCEDURES

All breath alcohol testing conducted for the city will be performed using evidential breath testing (EBT) equipment and personnel approved by the National Highway Traffic Safety Administration (NHTSA).

1. Step One: An initial breath alcohol test will be performed using a breath alcohol analysis device approved by the National Highway Traffic Safety Administration (NHTSA). If the measured result is less than 0.02 percent breath alcohol level (BAL), the test will be considered negative. If the result is greater or equal to 0.04 BAL, the result will be recorded and witnessed, and the test shall proceed to Step Two.
2. Step Two: Fifteen minutes will be allowed to pass following the completion of Step One above. Before the confirmation test or Step Two is administered for each employee, the breath alcohol technician shall insure that the evidential breath testing device registers 0.00 on an air blank. If the reading is greater than 0.00, the breath alcohol technician will conduct one more air blank. If the reading is greater than 0.00, testing shall not proceed using that instrument. However, testing may proceed on another instrument. Then Step One will be repeated using a new mouthpiece and either the same or equivalent but different breath analysis device.

The breath alcohol level detected in Step Two shall be recorded and witnessed.

If the lower of the breath alcohol measurements in Step One and Step Two is 0.04 percent or greater, the employee shall be considered to have failed the breath alcohol test.

Any breath alcohol level found between 0.02 percent BAL and 0.04 percent BAL shall result in the employee's removal from duty without pay for a minimum of 24 hours. In this situation, the employee must be retested by breath analysis and found to have a BAL of up to 0.02 percent before returning to duty with the city.

All breath alcohol test results shall be recorded by the technician and shall be witnessed by the tested employee and by a supervisory employee of the city when possible.

The completed breath alcohol test form shall be submitted to the Human Resources Director.

7.2.3. OPPORTUNITY TO CONTEST OR EXPLAIN TEST RESULTS

Employees and job applicants who have a positive confirmed drug or alcohol test result may explain or, after requesting the testing of the split specimen, contest the result to the medical review officer within five (5) working days after receiving written notification of the test result from the medical review officer. As provided in *Tennessee Code Annotated § 50-9-116*, the medical review officer shall only consider prescriptions issued within six (6) months prior to a positive confirmed drug result for purposes of determining a valid prescription and immunity from actions required by this policy following a positive confirmed drug result. If an employee's or job applicant's explanation or challenge is unsatisfactory to the medical review officer, the medical review officer shall report a positive test result

back to the city. An employee may contest the drug test result pursuant to rules adopted by the Drug Free Workplace Program of the Tennessee Bureau of Workers' Compensation.

7.2.4. EDUCATION AND TRAINING

7.2.4.1 All Newly Hired Employees

The city will sponsor a drug-free awareness program for all newly hired employees consisting of 60 minutes of training. Existing employees who have undergone such training at least once previously must, at minimum, acknowledge annually in writing the existence of the city's drug-free workplace policy.

7.2.4.2. Supervisory Personnel Who Will Determine Reasonable Suspicion Testing

In addition to the training for all employees, supervisory personnel who will determine whether an employee must be tested based on reasonable suspicion and all persons who supervise CDL drivers subject to these regulations will be trained to include at the minimum two 60-minute periods of training on the specific, contemporaneous, physical, behavioral, and performance indicators of both probable drug use and alcohol use. One 60-minute period will be for drugs, and one 60-minute period will be for alcohol.

7.2.4.3. Distribution of Information

The minimal distribution of information for all employees will include the display and distribution of:

1. informational material on the effects of drug and alcohol abuse;
2. an existing community services hotline number, available drug counseling, rehabilitation, and employee assistance programs for employee assistance;
3. the city's policy regarding the use of prohibited drugs and/or alcohol; and
4. the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

7.2.5. CONSEQUENCES OF A CONFIRMED POSITIVE DRUG AND OR ALCOHOL TEST RESULT AND/OR VERIFIED POSITIVE DRUG AND/OR ALCOHOL TEST RESULT

One of the goals of the city's drug-free workplace program is to encourage employees to voluntarily seek help with alcohol and/or drug problems. If, however, an employee violates the policy, the consequences may result in disciplinary action up to and including termination of employment.

Job applicants will be denied employment with the city if their initial positive pre-employment drug test results have been confirmed and/or verified.

If a current employee's positive drug and alcohol test result has been confirmed, the employee is subject to immediate removal from any safety-sensitive function and may be subject to disciplinary action, up to and including termination. The city reserves the right to allow employees to participate in an education and/or treatment program approved by the city's Employee Assistance Program as an alternative to or in addition to disciplinary action. If such a program is offered and accepted by the employee, then the employee must satisfactorily participate in and complete the program.

No disciplinary action may be taken pursuant to this drug policy against employees who voluntarily identify themselves as drug users, obtain counseling and rehabilitation through the city's Employee Assistance Program or other program sanctioned by the city, agree to and successfully complete the terms of a return-to-work agreement, and thereafter refrains from violating the city's policy on drug and alcohol abuse. However, voluntary identification will not prevent removal from safety-sensitive functions or disciplinary action for the violation of the city's drug and alcohol testing policies and regulations, nor will it relieve the employee of any requirements for return to duty testing. (See Section 7.2.7. – Voluntary Disclosure)

7.2.6. REFUSAL TO CONSENT TO TESTING

Refusing to submit to an alcohol or drug test means that an employee: (1) fails to provide adequate breath for testing without a valid medical explanation after he/she has received notice of the requirement for breath testing in accordance with the provisions of this part; (2) fails to provide adequate urine for drug testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; (3) engages in conduct that clearly obstructs the testing process; or (4) any other action specified in this policy as a refusal to submit. In either case the physician or breath alcohol technician shall provide a written statement to the city indicating a refusal to test.

7.2.7. RETURN-TO-WORK AGREEMENT

Following a violation of the drug-free workplace policy, an employee may be offered an opportunity to participate in rehabilitation. In such cases, the employee must sign and abide by the terms set forth in a return-to-work agreement as a condition of continued employment. A return-to-work agreement (RTWA) is a written document that sets forth the expectations that the city has for completing rehabilitation, return-to-work testing, and follow-up post-rehabilitation testing. RTWA may also include completion of return-to-duty recommendations from the substance abuse professional. RTWA also sets forth the consequences if the expectations are not met. This agreement will be used if an employee has violated the drug-free workplace policy and has been provided the opportunity to participate in rehabilitation as a condition of continued or re-employment, or voluntarily identifies as a drug user, obtains counseling and rehabilitation through the city's Employee Assistance Program or other program sanctioned by the city.

If an employee has the capacity to consent to such agreement prior to entering rehabilitation, an agreement shall be executed prior to the employee entering rehabilitation. If the employee does not have the capacity to consent to such agreement prior to entering rehabilitation, an agreement shall be executed prior to the employee returning to work.

7.2.7. VOLUNTARY DISCLOSURE OF DRUG AND/OR ALCOHOL USE

In the event that an employee of the city is dependent upon or an abuser of drugs and/or alcohol and sincerely wishes to seek professional medical care, that employee should voluntarily discuss his/her problem with the Human Resources Director in private.

Such voluntary desire for help with a substance abuse problem may be honored by the city. If substance abuse treatment is required, the employee will be removed from service pending completion of the treatment. Voluntary disclosure must occur before an employee is notified of or otherwise becomes subject to a pending drug and/or alcohol test.

Affected employees of the city are entitled to up to thirty (30) consecutive calendar days for initial substance abuse treatment as follows:

1. The employee must use all vacation, sick and compensatory time available/ all sick time available/ all vacation time available/ all compensatory time available). Any leave for substance abuse treatment shall run concurrently with any applicable Family Medical Leave.
2. In the event accumulated annual/vacation, sick, and compensatory time is insufficient to provide the medically prescribed and needed treatment up to a maximum of thirty (30) consecutive calendar days, the employee will be provided unpaid leave for the difference between the amount of accumulated leave and the number of days prescribed and needed for treatment up to the maximum 30-day treatment period.

Prior to any return-to-duty consideration of an employee following voluntary substance abuse treatment, the employee shall obtain a return-to-duty recommendation from the substance abuse professional (SAP) monitoring the employee's treatment. The SAP may suggest conditions of reinstatement of the employee that may include after-care and return-to-duty and/or follow-up drug and alcohol testing requirements. The respective Department Head, Human Resources Director, and City Administrator of the city will consider each case individually and set forth final conditions of reinstatement to duty. These conditions of reinstatement must be met by the employee. Failure of the employee to

complete treatment or follow after-care conditions, or subsequent failure of any drug or alcohol test under this policy will result in disciplinary action up to, and including, dismissal.

These provisions apply to voluntary disclosure of a substance abuse problem by an employee of the city. Voluntary disclosure provisions do not apply to applicants. Employees testing positive during drug and/or alcohol testing under this policy are subject to disciplinary action.

7.2.8. EXCEPTIONS

This policy does not apply to lawful possession, use or provision of alcohol and/or drugs by employees in the context of authorized work assignments (i.e., undercover police enforcement, intoxilyzer demonstrations). In all cases, it is the individual employee's responsibility to ensure that job performance is not adversely affected by the lawful possession, use, or provision of alcohol and/or drugs.

7.2.8. EMPLOYEE CONFIDENTIALITY/PROTECTION

The information received by the city through the drug-free workplace program will be maintained as confidential to the extent authorized by law.

7.2.9. CLEARINGHOUSE REPORTING REQUIREMENTS

As part of the continuing efforts to promote safe roadways and to ensure only qualified CDL drivers are performing safety-sensitive duties, a database was created that will contain pertinent information containing CDL drivers' drug and alcohol testing violations. Employers will be required to query the data base on an annual basis for current employees and as part of the pre-employment screening process for all covered prospective employees.

The following outlines the responsibilities for the reporting entity and when and what information is required to be reported to the clearinghouse. They are as follows:

- Prospective/Current Employer of CDL Driver must report within 3 business days:
- An alcohol confirmation test with a concentration of 0.04 or higher.
- Refusal to test (alcohol) as specified in 49 CFR 40.261.
- Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191.
- Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance.
- Negative return-to-duty test results (drug and alcohol testing, as applicable)
- Completion of follow-up testing.
- Medical Review Officer (MRO) must report within 2 business day:
- Verified positive, adulterated, or substituted drug test result.
- Refusal to test (drug) requiring a determination by the MRO as specified in 49 CFR 40.191.
- Substance Abuse Professional (SAP) must report within one business day: Successful completion of treatment and/or education and the determination of eligibility for return-to-duty testing (identification of driver and date the initial assessment was initiated).

**CITY OF WHITE HOUSE
PERFORMANCE CORRECTION NOTICE**

Employee Name: _____

Date: _____

Supervisor / Mgr: _____

Department: _____

Discipline Level:

Oral Reprimand

Written Reprimand

Suspension PAID UNPAID

~~Suspension UNPAID~~ Demotion

Nature of Incident:

Policy / Procedure Violation

Behavior / Conduct Violation

(Check all that apply)

Performance Issue

Attendance Violation

Description of Incident and Supporting Details: *(include time, place, date, witnesses, etc. - attach additional supporting documentation if necessary)*

Performance Improvement Plan: *(provide measurable improvement goals, special direction, training, etc. as needed)*

Outcomes and Consequences: *(provide timelines, probationary periods, etc. and expectations if recurrence of violation)*

Employee Comments Rebuttal: *(attach additional sheets if necessary)*

Employee Acknowledgement: I have received a copy of this notification. It has been discussed with me, and I have been advised to take time to consider prior to signing. By signing this document, I commit to follow the standards of performance and conduct outlined in the City of White House Personnel Manual.

Employee Signature: _____

Date: _____

Supervisor Signature: _____

Date: _____

Department Head Signature: _____

Date: _____

Human Resources Signature: _____

Date: _____

City Administrator Signature: _____

Date: _____

Original: Human Resources

Copy: Employee