

**CITY OF SHULLSBURG/SHULLSBURG UTILITIES
DRUG FREE WORKPLACE POLICY**

I. STATEMENT OF POLICY

- A. The City of Shullsburg (the "City") recognizes that the use and/or abuse of alcohol or controlled substances by employees of the City presents a serious threat to the safety and health of the employee, the employee's family, and the general public. It is the policy of the City that its employees be free of drugs and alcohol in the workplace, on City time, or while representing the City.

To further this purpose and to come into compliance with the Omnibus Transportation Employee Testing Act of 1991, a drug and alcohol testing program has been implemented:

- To help reduce and avoid accidents and injuries to our employees and the public;
 - To discourage substance abuse; and
 - To reduce absenteeism, health care costs, and other drug and alcohol related problems.
- B. The Department of Transportation (DOT) requires alcohol and controlled substance testing of drivers who are required to have a commercial driver's (CDL) license and who:
- Operate a vehicle that is rated to transport 16 or more passengers, including the driver;
 - Drive a vehicle with a gross weight rating of 26,001 or more pounds; or
 - Drive a motor vehicle of any size carrying hazardous material that requires placarding.
- C. The purpose of this Policy is to establish an alcohol and controlled substances testing program to help prevent accidents and injuries resulting from the misuse of these substances by employees of the City.
- D. For the purposes of this policy, the City and the DOT strictly prohibit the use, or residual effects, or presence in one's system of alcohol and/or controlled substances in the workplace by its employees, including those who are regularly or occasionally operating a commercial motor vehicle, including mechanics and supervisors who are required to have a CDL license.

II. PROHIBITED CONDUCT

- A. The City prohibits the use of alcoholic beverages or illegal controlled substances on City property except with appropriate permits or licenses. The City prohibits reporting for work while under the influence of alcoholic beverages or illegal controlled substances.

For purposes of this policy, “under the influence” is defined as prohibited substances in one’s system as determined positive by a certified laboratory and/or the DOT’s alcohol level.

B. Federal Regulations prohibit CDL employees from engaging in the following conduct:

1. Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater;
2. Being on duty or operating a commercial motor vehicle while possessing alcohol, or using alcohol while performing safety-sensitive functions;

NOTE: Federal Regulations include non-prescription and prescription medications containing alcohol in the substances banned from use or possession in the workplace. Employees should not report for duty while using or possessing prescription medication if such medication contains any measurable amount of alcohol.

3. Performing safety-sensitive functions within four (4) hours after using alcohol;
4. Using alcohol within eight (8) hours following an accident, when the employee is required to be tested, unless a test result has already been obtained;
5. Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions when using any controlled substance, unless the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver’s ability to safely operate a commercial motor vehicle;
6. Reporting for duty, remaining on duty or performing a safety-sensitive function if the employee tests positive for controlled substances; or
7. Refusing to submit to any alcohol or drug testing required by this Policy.

C. “Safety-sensitive function” means any of the following on-duty functions:

1. All time waiting to be dispatched;
2. All time inspecting, servicing or conditioning any commercial motor vehicle;
3. All driving time, i.e., all time spent at the driving controls of a commercial motor vehicle in operation;
4. All time, other than driving time, in or upon any commercial motor vehicle;
5. All time loading or 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

6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

D. In addition, this Policy prohibits all employees from engaging in the following conduct except as required in the performance of their duties:

1. Using, possessing, dispensing, distributing, selling, receiving or being under the influence of alcohol and/or illegal controlled substances while on duty;
2. Reporting for work or remaining at work while being under the influence of alcohol and/or illegal controlled substances;
3. Deliberately misusing this policy in regard to subordinates; and
4. Providing false information in connection with a test, or falsifying test results through tampering, contamination, adulteration, or substitution.

III. EMPLOYEE ASSISTANCE AND REHABILITATION

The goals of this policy are prevention and rehabilitation whenever possible, rather than discipline or termination. The City provides access to drug and alcohol counseling and rehabilitation for all full-time employees through programs offered by their various insurance carriers. The City treats drug and alcohol addiction the same as other illnesses and provides for a leave of absence if required by the Family and Medical Leave Act for treatment of drug-related or alcohol-related illnesses.

The City recognizes drug and alcohol abuse as a potential health and safety problem. Employees are encouraged to seek help in dealing with these problems. Conscientious efforts to seek help will not jeopardize any employee's job. Employees seeking help may work through their Supervisor.

This Policy does not excuse any employee from the requirement of meeting the job duties, responsibilities, or expectations of the City of Shullsburg concerning the position held by the employee. Any employee whose abuse of alcohol or illegal prescription drugs results in excessive absenteeism or tardiness or is the cause of a work-related accident or poor work performance must see their physician and obtain a referral to a certified substance abuse program for rehabilitation purposes. Such an employee will face discipline and/or termination if he/she rejects that program or continues to have job performance problems.

IV. SCOPE

1. For the purposes of this Policy, individuals subject to this Policy shall be all employees of the City who are covered under the City's Worker's Compensation Insurance Policy.
2. Prohibited substances are any unlawful controlled substances. A five panel screen will be used by the City to test for the most common drugs: marijuana, cocaine, opiates (heroin, codeine, morphine; etc.), amphetamines and phencyclidine (PCP).

3. Alcohol and prohibited controlled substances will be tested for post-incident and for reasonable cause circumstances as determined by the Supervisor and as defined herein. Employees may submit to a breathalyzer test or be judged solely on the basis of the subjective observations of their Supervisor and at least one other witness.

V. TESTING CIRCUMSTANCES

| TESTING REQUIRED | CDL EMPLOYEES | NON CDL EMPL |
|-------------------------|----------------------|---------------------|
| A. Pre-Employment | Yes | No |
| B. Reasonable Suspicion | Yes | Yes |
| C. Post Accident/Injury | Yes | Yes |
| D. Random Testing | Yes | No |
| E. Return to Work | Yes | Yes |

Refusal to take a required test will result in removal of that employee from the employee’s assignment(s) which, in turn, may result in discipline up to and including discharge. Testing must be conducted in the following situations:

- A. **Pre-employment** – CDL license holders not currently employed by the City will be required to undergo drug and alcohol testing after a conditional offer of employment has been made. A positive test or refusal to undergo the testing will result in disqualification from further consideration for employment.
- B. **Reasonable Suspicion And/Or Cause** - Required when a Supervisor or other trained City representative has reasonable cause to believe that the actions, appearance or conduct of an employee may be indicative of the use of a prohibited controlled substance and/or alcohol. These observations are only valid if made just before, just after, or during working hours. The following applies to reasonable suspicion testing:
 1. Whenever reasonably possible, the Supervisor should seek a corroborating opinion from another trained supervisor or manager prior to immediately removing the employee from the job and sending the employee for drug and alcohol testing.
 2. As soon as practicable, the employee will be escorted to the collection site for drug and/or alcohol testing. The Supervisor will wait at the clinic with the employee until the breath test has been completed or the urine test has been taken. After the Reasonable Suspicion Determination is made, the alcohol test must be completed within eight (4) hours and the drug test must be conducted within twenty-four (8) hours or the Supervisor must complete a report explaining why.
 3. Once the alcohol testing has been completed and a positive test result has been achieved (0.02 percent or above), the employee will not be permitted to drive his/her own vehicle home. The employee must make alternative transportation arrangements in order to leave the collection site or employment site. The

Supervisor is neither required nor encouraged to drive the employee home under this policy.

4. If a blood alcohol or urine test has been administered, the employee will be placed on administrative leave without pay pending receipt of the test results. The employee may use accumulated vacation or sick days in place of the administrative leave. In the event of a negative test, the employee will be credited with the amount of vacation or sick days used. The Medical Review Officer (MRO) will contact the employee or employer once the results are known.
5. Once the test has been completed and the employee has been sent home, the Supervisor must submit a written report to the Mayor outlining, in detail, the event and the behavior observed that led the Supervisor to believe the employee was under the influence of alcohol and/or drugs. This report must be done within twenty-four (24) hours of the testing. This report will assist the Supervisor and the Mayor in assessing the appropriate discipline to be considered.
6. The test results will be sent directly to the Mayor. The Mayor will then meet with the employee's supervisor and/or department head to determine the appropriate course of action to be taken in accordance with this policy. This is a **confidential** process. Test results will be held strictly confidential and are not to be discussed or shared with anyone who does not need to know. Likewise, a Supervisor must not discuss the suspected reason for a referral or discipline action with anyone who does not need to know.

- C. **Post-Incident Injury** - Employees subject to post-incident alcohol and/or drug testing shall remain readily available for such testing or may be deemed by the City as having refused to submit to testing. The drug test and alcohol breath test must be administered as soon as possible, but no later than six (6) hours of the accident. If these criteria are not met, the Supervisor will complete a report explaining why and submit it to the Mayor.

As soon as practicable following an incident involving a City vehicle and/or property, the Supervisor at his/her discretion shall have the employee tested for alcohol and prohibited controlled substances in the following situations:

1. The incident is defined as the loss of human life, damage to City vehicle(s), property, equipment, and/or personal injury.
2. The employee received a citation for a moving traffic violation.
3. Bodily injury is incurred requiring a person to immediately receive medical attention away from the scene of the incident.
4. One or more motor vehicles incur disabling damage as a result of the accident and have to be towed away from the scene.

As soon as practicable following any incident involving lost time from work or requiring medical treatment away from the scene of the incident, the City shall test the employee for alcohol and/or prohibited controlled substances.

- D. **Random Testing** - Required by DOT of any employee holding a CDL license.

There is no requirement for random testing of non-CDL employees. Random alcohol and drug testing will be conducted just before, during, or just after an employee's performance of safety sensitive duties. The employee will be randomly selected for testing from the "pool" of employees subject to testing. The testing dates and times are unannounced and will occur with unpredictable frequency throughout the year.

Fifty (50) percent of the average number of safety sensitive positions shall be drug tested on an annual basis. The City reserves the right to increase or decrease the minimum annual percentage for random drug testing based on the Federal Regulations implementing drug and alcohol testing in the transportation industry.

Ten (10) percent of the average number of safety sensitive positions shall be alcohol tested on an annual basis. The City reserves the right to increase or decrease the minimum annual percentage for random alcohol testing based on the Federal Regulations implementing drug and alcohol testing in the transportation industry.

The random selection of employees shall be arranged by the drug testing agency. Under this selection process, each employee will have an equal chance of being tested each time selections are made. As a result, some employees may be tested more than once each year, while other employees may not be tested at all.

- E. **Return to Work/Follow-up Testing** - Employees who have tested positive and have been placed on Administrative leave will undergo Return to Work alcohol and/or controlled substance testing. The result must be an alcohol concentration of less than 0.02 and a verified negative result for controlled substance use. The employee will also have to be evaluated by the City's Employee Assistance Program (EAP).

Following a determination by a substance abuse professional that an employee is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, the employee will be given at least six (6) unannounced random tests during the twelve (12) month period after returning to duty. There will also be the possibility of follow-up testing for up to sixty (60) months after the employee returns to duty.

VI. TESTING PROCEDURES

- A. **Alcohol Testing** - Employees will be required to submit to breath testing using an approved evidential breath testing (EBT) device. A state-certified breath alcohol technician (BAT) will administer an initial screening test. If the employee tests positive for alcohol, then the BAT will conduct a confirmation test. The City will take action based only upon the positive results of the confirmation test, 0.02 percent or greater. All

procedures and steps used in conducting both the initial and confirmation tests will be performed in conformance with the federal law and federal regulations.

B. **Testing for Controlled Substances** - Any abnormal conduct that may create a reasonable suspicion that an employee is under the influence of a controlled substance is addressed in the "Reasonable Suspicion And/Or Cause" section described previously in this Policy.

1. For purposes of this Policy and the Federal Regulations, the City will utilize a five (5)-panel drug screen consisting of the following drugs:

- Tetrahydrocannabinol (Marijuana);
- Cocaine;
- Amphetamines;
- Opiates (including Heroin); and
- Phencyclidine (PCP).

In instances where there is reason to believe an employee is abusing a substance other than the five drugs listed above, the City reserves the right to test for additional drugs under the City's own authority using standard laboratory testing protocols.

2. **Results of a Positive Test** - Any employee who tests positive for controlled substances is subject to discipline, up to and including discharge. As with an alcohol misuse violation, the City is required to act upon a positive drug test result in the following manner:

- a) Remove the employee from the workplace. This removal will only take place after the employee has been allowed to meet or speak with a MRO (when necessary) in order to determine that the positive drug test did not result from the authorized use of a controlled substance;
- b) Refer the employee for assessment of a drug problem and a determination of whether participation in a treatment program is necessary;
- c) Obtain verification from a substance abuse professional or a MRO that the employee has complied with any required rehabilitation or treatment program and is fit to return to work; and
- d) Employee must have a negative result on a return-to-work drug test. Follow-up periodic, unannounced testing to monitor the employee's continued abstinence from drug use will be required if the employee is determined as needing rehabilitation as specified by a substance abuse professional. The employee will subsequently be given at least six (6)

periodic, unannounced tests during the next year with the possibility of follow-up testing for up to sixty (60) months.

VII. PRESCRIPTION DRUGS

Before performing work related duties, employees must notify their supervisor if they are taking any legally prescribed medication, therapeutic drug, or any non-prescription drug.

It is the responsibility of the employee to inform his/her physician of the type of work the employee performs in order that the physician may determine if the prescribed substance could interfere with the safe and effective performance of the employee's duties or operation of City equipment.

As required by the Federal Regulations, any employee who uses or possesses medication containing alcohol while on duty or who tests positive for alcohol while on duty will be removed from his/her position and will be subject to the provisions of this Alcohol and Controlled Substance Policy even though the reason for the positive alcohol test is the fact that the employee's prescription medication contains alcohol.

A legally prescribed drug is one where the employee has a prescription or other written approval from a physician for the use of the drug in the course of medical treatment. The prescription must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization. The misuses or abuse of legal drugs while performing City business is prohibited by City Policy.

VIII. CONFIDENTIALITY OF RECORDS

The City respects the confidentiality and privacy rights of all of its employees. The results of any test administered under this Policy and the identity of any employee participating in the City's EAP through the Drug Free Workplace Network or other assessment or treatment program will not be revealed to anyone except as required by law and within the organization only to immediate need-to-know positions. The City will release an employee's records as directed by the express written consent of the employee authorizing release to an identified person. In addition, the City will ensure that any lab or agency used to conduct testing under this Policy will maintain the confidentiality of employee test records. The exception is that:

- The MRO will disclose information related to a positive drug or alcohol test of an employee to the City.
- The City may disclose this information to the employee or to the decision-maker in a lawsuit, grievance, or other proceeding by or on behalf of the individual which arises from any action taken in response to a positive drug or alcohol test.
- The City may disclose the information as required by law including court orders and subpoenas.

- The City may disclose the information upon the written consent and authorization of the tested employee.

All records related to drug and alcohol tests of individual employees will be maintained in individual files separate from the employee's personnel file. These records will be stored in a file in a locked cabinet. Access will only be allowed to those City employees who have a legitimate need to review the records of a particular employee.

Questions: Any employee having questions with respect to the scope of this policy and its contents may contact [INSERT CONTACT].

IX. DRUG FREE WORKPLACE ACT OF 1988 COMPLIANCE

It is the policy of the City to provide a drug-free workplace for all of its employees. The City requires that employees neither use nor be under the influence of drugs, intoxicants, alcohol, narcotics or any other controlled substance(s) and that a zero tolerance standard shall prevail in the workplace. The City recognizes the importance of maintaining a safe, efficient and healthful workplace, as well as the social responsibility to provide assistance to its employees to the extent possible. Therefore, employees are expected to report to work free from any alcohol or controlled substances that could inhibit their ability to perform their duties.

REPORTING OF DRUG CONVICTION

As required by the Drug Free Workplace Act, Public Law 100-690, Title V, Subtitle D, all City employees are hereby notified that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance, alcohol or drug paraphernalia is strictly prohibited in the workplace. Furthermore, this law makes it a condition of employment that all City employees abide by the **Drug and Alcohol Free Workplace Policy** and notify the City (your immediate Supervisor or the Mayor) of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction. Within ten (10) days of receiving such notice of conviction, the City will notify the appropriate federal contracting or granting agency as required. This is required by federal law. Within thirty (30) days of notice of a workplace drug conviction, the City will, at its discretion, take the following action: (1) require the employee to satisfactorily participate in a Drug of Alcohol Assistance or Rehabilitation Program that is approved by the City, or (2) take appropriate personnel action as identified below.

An employee's failure to abide by the terms of the above paragraph will result in disciplinary action up to and including termination of employment. The actual action taken will be based upon the seriousness of the offense, the employee's past employment record, and the employee's willingness to participate in drug or alcohol abuse assistance or rehabilitation.

PREVENTION AND REHABILITATION

The goals of this policy are prevention and rehabilitation whenever possible, rather than discipline or termination. That said, employees who fail to perform their jobs satisfactorily may face disciplinary action, up to and including termination. Employees who voluntarily seek

assistance with a substance abuse problem will be looked more favorably upon than those whose substance abuse issues come to light as a result of job performance issues. The City provides access to drug and alcohol counseling, rehabilitation and the EAP for all of its regular employees. The City's group health insurance provides benefits for rehabilitation services, and the City treats drug and alcohol addiction the same as other illnesses and provides for a leave of absence if required by the Family and Medical Leave Act for treatment of drug-related or alcohol-related illnesses. The City also recognizes drug and alcohol abuse as a potential health and safety problem. Employees needing help in dealing with such problems are encouraged to use the EAP and health insurance plans as appropriate. Employees may phone **INSERT CONTACT** for additional information. Conscientious efforts to seek such help will not jeopardize any employee's job; and contacts with the EAP, initiated only by the employee, will not be known nor noted in any personnel record as long as commenced prior to a drug test.

LEAVE OF ABSENCE PRIOR TO TESTING

An employee shall be permitted to take a leave of absence for the purpose of undergoing treatment pursuant to a Drug and Alcohol Assistance or Rehabilitation Program approved by the City for drug and alcohol addiction. The leave of absence must be requested prior to the commission of any act subject to disciplinary action.

RESPONSIBILITY OF THE CITY

Because drug and alcohol use can seriously jeopardize the health and safety of employees and the public, it is the responsibility of the City to attempt to maintain a drug-free and alcohol-free workplace at all times. As part of this effort, the City will continue to provide access to an EAP for current regular City employees, will administer pre-employment drug and alcohol testing where appropriate; will conduct post-accident, reasonable suspicion, random and return-to-work drug and alcohol tests as required by federal law; and will provide training and education to inform employees of the dangers of drug and alcohol abuse in the workplace. It is the responsibility of all City employees to abide by the terms of this policy as a condition of employment.

[The company is not required by the Department of Transportation to publish this form but all reasonable suspicion testing must be based on specific, contemporaneous, articulable observations concerning appearance, behavior, speech or body odor]

APPENDIX A
REPORT OF IMPAIRMENT FORM

Employee:

Date:

Location:

Time:

Observations

Breath (odor of alcoholic beverage):

Strong Faint Moderate None

Eyes:

Bloodshot Glassy Normal Watery Heavy Eyelids Normal Clear Fixed/Dilated Pupils

Speech:

Confused Stuttered Mumbled Accent Thick-Tongued Fair Slurred Good Mush- Mouthed

Not Understandable Cotton-Mouthed Other: _____

Attitude:

Excited Combative Hilarious Indifferent Talkative Insulting Care-Free Cocky

Sleepy Cooperative Profane Polite Other: _____

Unusual:

Hiccoughing Belching Vomiting Fighting Crying Action Laughing Other: _____

Balance:

Falling Wobbling Swaying Needs Support Other: _____

Walking:

Falling Staggering Stumbling Swaying Other: _____

Turning:

Falling Staggering Stumbling Swaying Hesitant Other: _____

Indicate any other unusual actions or statements: _____

Supervisor's Opinion

Effects of alcohol/controlled substance intoxication: () None () Slight () Obvious () Extreme

May the employee safely operate equipment? () Yes () No

Additional Comments: _____

Supervisor: _____ Witnesses: _____

Signature: _____ Signature: _____

Date: _____ Date: _____

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