

# CITY OF ESSEXVILLE

## SUBSTANCE ABUSE POLICY

Department of Transportation Regulated Employees  
(Original Adoption November 29, 1995, Revised July 1, 2004)

### I. PURPOSE

The City of Essexville ("CITY") Substance Abuse Policy (the "Policy") is established to comply with the United States Department of Transportation ("DOT") and the Federal Motor Carrier Safety Administration ("FMCSA") regulations, specifically 49 C.F.R. Parts 40, 382, and 392 as amended from time to time to maintain a safe, healthful and efficient working environment for our employees, to protect citizens and citizens property, equipment and operations, and to protect the motoring public from illegal drugs or drugs taken for non-medical purposes.

*The DOT requires an employer conduct drug and alcohol testing of its drivers at the times and under the conditions described in this policy. The regulations apply to every person who operates a commercial motor vehicle ("CMV") in interstate, foreign, or intrastate commerce and to all employers of such persons in all states. It is the intention and the policy of the City of Essexville to comply fully with these regulations, as they are promulgated and amended from time to time. The City reserves the right to apply all amended or revised requirements of these regulations immediately without giving prior notice to the affected employees and/or the union unless DOT regulations or law requires such notice.*

The use and effects of controlled substances and alcohol pose very serious problems. Not only can the use and/or abuse of drugs or alcohol jeopardize the health, safety, and well-being of the individual user and all of our employees, it can also endanger the safety of the public, jeopardize the safety of our roads and highways, and cause serious accidents and casualties. In view of these problems, the City wants to state unequivocally its policy to detect and to deter the use of drugs and alcohol in our transportation and work environment, either through testing, cessation of use, or termination of employment. Our policy is as follows:

### II. APPLICATION

The Policy applies to all drivers when they are on City of Essexville time and/or premises.

For purposes of this Policy:

- "Driver" means an employee who is required by the City of Essexville to operate a vehicle that requires a Commercial Drivers License (CDL).

- "City premises" includes but is not limited to all property, whether owned or leased or used by the City. This policy also includes any other locations or modes of work or transportation to and from those locations while in the course and scope of employment.
- "Prohibited substances" has the meaning defined by 21 U.S.C. section 802 and includes all substances listed Schedule I (21 C.F.R. Part 1308) or identified in Appendix D of the Federal Motor Carrier Safety Regulations; an amphetamine or any formulation thereof; a narcotic drug or any derivative thereof; and any other substance which renders an employee incapable of safely operating a motor vehicle.
- "Under the influence" of any prohibited substance (illegal drug) means any detectable level of a prohibited substance in an employee's system above the NIDA cut-off levels.
- "Under the influence" of alcohol means a blood alcohol level of .04% or greater. A positive alcohol test means a blood alcohol level of .02% or greater.
- "Reasonable Suspicion" is the observance of aberrant or unusual on-duty behavior of an individual employee which:
  - a) is observed on-duty by the employee's immediate supervisor or higher ranking employee and confirmed by the observation of another supervisory employee, managerial employee or guard trained to recognize the symptoms of drug abuse, impairment or intoxication (which observations shall be documented by the observers); and
  - b) is the type of behavior which is a recognized and accepted symptom of intoxication or impairment caused by controlled substances or alcohol or addiction to or dependence upon said controlled substances; and
  - c) is not reasonably explained as resulting from causes other than the use of controlled substances (such as, but not by way of limitation, fatigue, lack of sleep, side effect of prescription or over-the-counter medications, reaction to noxious fumes or smoke, etc.)

Reports of drug use or aberrant behavior which are not confirmed by supervisory observations shall not constitute reasonable suspicion.
- "Reportable accident" means an accident involving death, or where the driver of the vehicle was issued a moving traffic violation as a result of the accident.

### III. PROHIBITIONS

The Policy prohibits the:

1. Use, possession or being under the influence of a prohibited substance while on duty and/or on City premises, property or worksite or operating or in physical control of the Employer's vehicles or equipment.
2. Consuming or being under the influence of an intoxicating beverage, regardless of its alcohol content, within four (4) hours of reporting for work and/or operating or having physical control of a commercial vehicle.
3. Possessing, consuming or being under the influence of an intoxicating beverage, regardless of its alcohol content while on duty and/or on City premises, property or worksite or operating or in physical control of the Employer's vehicles or equipment.
4. Refusing to sign a consent or release form authorizing the collection of a specimen, analysis of the specimen for designated prohibited substances, and release of the results to the City when required by this policy.

### IV. IMPLEMENTATION AND ENFORCEMENT OF POLICY

The following procedures will be employed to assure compliance with this Policy.

- A. Testing. Employees are required to submit to drug and urinalysis under the following circumstances:
  1. to be considered for employment. If a prospective employee fails the drug test, they will not be hired. However, they may re-apply in 3 months.
  2. where Employer has reasonable suspicion to believe that an employee is under the influence of alcohol or a prohibited substance while on duty;
  3. as part of a transfer/promotion to a position which requires possession of a Commercial Driver's License; and
  4. as part of a random selection process;
  5. as part of rehabilitation. After an employee has a confirmed positive test, they will agree to under go random drug and alcohol testing. Period of time to be determined by the substance abuse counselor and the MRO. The employee is responsible for the cost of rehabilitation drug and alcohol testing;
  6. following a "reportable accident".

- B. Post-accident testing. As soon as possible but not later than eight (8) hours following a DOT "reportable accident" if the driver receives a citation for a moving traffic violation arising from the accident. If the eight (8) hour time limit is exceeded, the collection of an alcohol specimen is suspended, the drug specimen will be collected as soon as possible not to exceed thirty two (32) hours after the accident. The driver is solely responsible for assuring the Employer that the required specimen is provided as soon as possible.
- C. Use of Alcohol Following An Accident. No driver required to take a post-accident alcohol test shall use alcohol for eight (8) hours following the accident or until he/she undergoes a post-accident test, whichever occurs first.
- D. Employee Privacy. Testing will be conducted with concern for the personal privacy of each employee. Results of urine and blood tests performed hereunder will be considered medical records and held confidential to the extent permitted by law. Tests shall only be performed for alcohol, marijuana (THC), cocaine, opiates, amphetamines (including methamphetamines), and phencyclidine (PCP) and the laboratory shall only report on the presence or absence of these substances. Tests for other drugs shall not be performed and, if such tests are performed, the results of such other tests shall not be reported to the employer.
- E. Testing Procedure. All tests will be conducted in accordance with applicable regulations published by the Department of Transportation in a manner allowing individual privacy unless there is a reason to believe that a particular individual may/or has altered or substituted the specimen provided. All tests will be collected at designated collection sites under the supervision of trained collectors.

Urine and blood specimens shall be drawn or collected at the laboratory, hospital or medical facility at which the specimen is to be tested or prepared for testing. If requested by the employee, a Union representative shall be allowed to accompany the employee, without a loss of time, to the testing facility. No employee shall have blood drawn unless under direct order of a law enforcement agency. The employee shall not be observed when the urine specimen is given.

The testing shall be done by a laboratory certified by the State of Michigan as a medical and forensic laboratory which complies with the Scientific and Technical Guidelines for Federal Drug Testing Programs and the Standards for Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies issued by the Alcohol, Drug Abuse and Mental Health Administration of the U.S. Department of Health and Human Services.

The Employer shall notify the Union in writing of any changes in the collection facility, testing facility, or its Medical Review Officer(s) at least fifteen (15) days prior to such change(s) becoming effective.

- F. Availability of Test Results. The results of any drug test and records connected with the testing procedure, will be made available to the individual tested upon written request. The results of the tests themselves are reviewed by a licensed physician who has the knowledge of substance abuse disorders (MRO). If the tests are positive the individual tested will be advised of the results and the type of drug or drugs discovered. The individual tested will be given the opportunity to discuss the test results with the licensed physician prior to the time the test results are made available to the Employer. After notification of the MRO's final positive determination, the employee has seventy two (72) hours to request a test of the "split specimen" at another DHHS certified laboratory.

The documentation of results of the test will not be made available to other parties except upon the written request of the individual, or when an applicable DOT regulation requires such disclosure, or if in the MRO's reasonable judgment the information could result in the employee being medically unqualified to perform their duties, or if the information would cause a safety risk.

- G. Retesting of Original Split Specimen. The employee may request of the MRO in writing, to have the "split specimen" of a positive test retested at another DHHS certified laboratory selected by the employee. The employee will be required to pay for the retest in advance, and a check must accompany the written request.

Should the results of such retest be negative, the Employer shall reimburse the employee for all costs related to such retesting of the "split specimen". Further, the employee shall not suffer any discipline as a result of the initial positive test and will be made whole for any lost time or benefits suffered as a result of preliminary actions taken by the Employer based on the initial positive test results.

- H. Voluntary Disclosure. Employees who seek voluntary assistance for alcohol and substance abuse may not be disciplined for seeking such assistance. Requests from employees for such assistance shall remain confidential and shall not be revealed to other employees or management personnel without the employee's consent. Employees enrolled in substance abuse programs shall be subject to all employer rules, regulations and job performance standards with the understanding that an employee enrolled in such a program is receiving treatment for an illness.

## **V. PRESCRIPTION AND NON-PRESCRIPTION MEDICINE**

Before any drug test is administered, the employee or prospective employee may note, the use of any prescription or non-prescription medications. The laboratory procedures will report the significant presence of all prescription and non-prescription drugs.

Any employee using a medication which their physician has advised the employee the use of such medication may affect the employee's ability to safely operate a motor vehicle, or the employee's ability to otherwise perform the duties of their position, shall promptly notify the Employer that they are currently using such medication.

## **VI. CONSEQUENCES FOR VIOLATION OF THIS POLICY**

- A. Driver disqualification penalties under the Department of Transportation regulations include:
1. Drivers shall not be permitted to perform safety-sensitive functions.
  2. Drivers will be advised by the City of resources available to them in evaluating and resolving problems associated with misuse of alcohol or controlled substances.
  3. Drivers will be evaluated by a substance abuse professional ("SAP") who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and controlled substance use.
  4. Before a driver returns to duty requiring performance of a safety sensitive function he/she shall undergo a return to duty alcohol test with a result indicating a breath alcohol level of less than .02% if the conduct involved alcohol, or a controlled substance test with a verified negative result if the conduct involved controlled substance use.
  5. In addition each driver identified as needing assistance in resolving problems associated with alcohol or controlled substances shall be evaluated by a SAP to determine that the driver has followed the rehabilitation program prescribed.
  6. The driver shall also be subject to unannounced follow-up alcohol and controlled substance testing. The number and frequency of such follow-up testing shall be directed by the SAP, and consist of at least six (6) tests in the first twelve (12) months.
  7. A person who refuses to be tested or does not cooperate fully with the collection site personnel shall be treated as having a positive test result and, therefore, medically unqualified to perform his or her normal work task.

8. Failure to give a urine and breath sample when the employee is involved in a fatal accident will result in disqualification for one (1) year.
  9. A driver who tests positive for use of a controlled substance or alcohol when the driver has been involved in a fatal accident shall be disqualified for one (1) year.
  10. Any driver who tests positive for alcohol between .02% - .039% will be required to stand down from driving a commercial motor vehicle for twenty-four (24) hours.
- B. In addition to the penalties mandated by the Department of Transportation, if an employee tests positive (.02% - .039%) for alcohol, the following are minimum disciplinary steps that shall be taken:

First Offense:

Twenty-four (24) hour stand down, referenced above, shall be considered a one day disciplinary suspension without pay.

Second Offense:

Five (5) day suspension without pay and upon completion of the five (5) day suspension and before the City permits the employee to return to work, the employee will submit to a drug/alcohol test at the employee's expense and be evaluated by a SAP. If the employee then tests negative, he/she will be allowed to return to work. If he/she again tests Positive, the employee must successfully complete an Employer-approved drug rehabilitation program.

(Subsequent offenses subject to discharge.)

If an employee test positive for illegal drugs, and/or controlled substances or is under the influence (.04% or greater) of alcohol, the following are minimum disciplinary steps that shall be taken:

First Offense

Five (5) day suspension without pay: upon completion of the five (5) day suspension and before employee is allowed to return to work, he/she will submit to a drug/alcohol test at the employee's expense and be evaluated by a SAP. If the employee then tests negative, he/she will be allowed to return to work. If he/she again tests Positive, the employee must successfully complete an Employer-approved drug rehabilitation program.

Second Offense

Subject to Discharge.

## **VII. ASSISTANCE TO EMPLOYEE IN UNDERSTANDING ALCOHOL OR DRUG ABUSE**

To assist employees in understanding alcohol and drug use and abuse, the City has an Employee Assistance Program ("EAP"). The EAP includes a training program for supervisory personnel and all drivers and employees, which consists of the following:

1. The effects and consequences of prohibited substance use on personal health, safety, and the work environment;
2. The manifestation and behavioral causes that may indicate prohibited substance use or abuse;
3. Review of the drug and alcohol policy; and
4. Documentation of training given to drivers, employees, and supervisors.

## **VIII. EMPLOYEE ASSISTANCE PROGRAM**

The City of Essexville supports the Employees Assistance Program. This Policy supports the treatment of employees for drug and alcohol abuse. The City will supply employees with information about treatment programs.

## **IX. CONDITION OF EMPLOYMENT**

Compliance with the City of Essexville's Substance Abuse Policy is a condition of employment. Failure or refusal of an employee to cooperate fully to a drug test as provided will be grounds for discipline up to and including discharge.

Questions regarding this policy should be directed to your Supervisor.