

AN ORDINANCE OF THE CITY OF NEOSHO, PROVIDING THAT THE CODE OF ORDINANCES, CITY OF NEOSHO, MISSOURI, BE AMENDED BY REVISING SECTION 115:090, PROVIDING FOR DRUG AND ALCOHOL ABUSE POLICIES

Whereas, Section 4.06 of the Charter of the City of Neosho, Missouri, provides that the City Council shall by ordinance adopt such personnel policies as it may deem appropriate;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NEOSHO, MISSOURI:

Section One: That certain policies and rules and regulations for employees of the City of Neosho, Missouri, attached hereto as "City of Neosho Alcohol and Drug Abuse Policy", Exhibit A, and incorporated herein by reference, be adopted and shall be in effect within the City of Neosho, Missouri, until changed or amended by the City Council of the City of Neosho, Missouri.

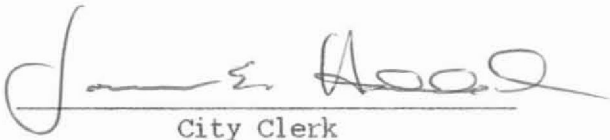
Section Two: The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Neosho, Missouri, as amendments and additions thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

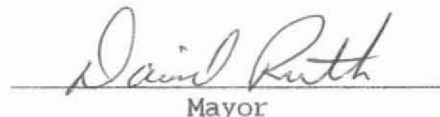
Section Three: This ordinance shall be in full force and effect fifteen (15) days after final passage and approval.

APPROVED after final passage this 6th day of may, 1997

ATTEST:

CITY COUNCIL, CITY OF NEOSHO


City Clerk


Mayor

APPROVED:


City Attorney

CITY OF NEOSHO

ALCOHOL AND DRUG ABUSE POLICY

1. PURPOSE

The City of Neosho ("City") is concerned about the effects of the use of illegal drugs and/or the abuse of alcohol upon the health and safety of its employees. As a general policy, the City prohibits and is opposed to any situation where the usage of alcohol or drugs interferes with an employee's health or job performance, the interests of the public, poses a safety problem, adversely affects the job performance of any other employee, or is considered detrimental to the City's business in any other manner. Employees who abuse drugs and alcohol can be a danger to themselves, their fellow employees, members of the public and to City property.

The City is committed to provide safe, dependable, and economical services to the citizens and to provide safe working conditions for its employees, and to comply with the requirements of federal law and regulations related to the Drug Free Workplace Act of 1988 and the Omnibus Transportation Employee Testing Act of 1991. It is also the policy of the City of Neosho to provide healthy, satisfying, working environments for its employees. Therefore, the City has adopted this written Alcohol and Drug Abuse Policy.

The City will comply with the requirements for testing of the U.S. Department of Transportation and other applicable federal and state laws and regulations.

II. SCOPE OF POLICY

This Alcohol and Drug Abuse Policy shall apply to all City employees (including all salaried, exempt, non-exempt, hourly, regular, part-time, seasonal and temporary employees) and all applicants for such positions.

Additionally, certain City positions bear special consideration. Thus, individuals and applicants for such positions as set forth more specifically herein will be subject to a wider range of alcohol, and/or drug testing than City employees in general.

Special provisions in this policy apply specifically to City employees who possess a commercial drivers license ("CDL") regardless of the amount of time or frequency actually spent driving commercial motor vehicles on behalf of the City (hereafter referred to as "drivers").

Special provisions in this policy also apply specifically to employees in safety-sensitive and/or security-sensitive positions (such as police officers and firefighters) as well as those whose primary job duties involve the operation of City vehicles (hereafter referred to as "operator").

III. ASSISTANCE FOR EMPLOYEES WHO VOLUNTARILY SEEK HELP FOR ALCOHOL OR DRUG ABUSE

Early recognition and treatment of alcohol or drug abuse is important for successful rehabilitation, for the economic good-health of the City, and for reduced personal, family, and social disruption. The City encourages the earliest possible diagnosis and treatment for alcohol or drug abuse and supports sound treatment efforts. Whenever feasible, the City will try to assist employees in overcoming drug or alcohol abuse. However, the decision to seek diagnosis and accept treatment for alcohol or drug abuse is the individual employee's responsibility.

Disciplinary action shall not be taken against an employee who voluntarily identifies himself/herself as a drug and/or alcohol abuser, provided he/she seeks assistance prior to being required by the City to undergo a drug and/or alcohol test, and, after requesting such assistance, refrains from violating the City's policy against drug and alcohol abuse as well as complies with any required treatment program.

Voluntarily seeking assistance with drug and/or alcohol abuse will not prevent disciplinary action for violation of the City of Neosho Alcohol and Drug Abuse Policy, however, Employees who undergo voluntary counseling or treatment for such problems and who continue to work must meet all established standards of conduct and job performance.

Employees with personal alcohol or drug abuse problems should seek treatment through the City's health insurance plan. Employees may seek help without the approval or even knowledge of their supervisor. However, when dealing with possible leaves of absence, this may not be possible. Employees seeking treatment for personal alcohol or drug abuse problems may use accrued leave time for time required away from their job. Those employees who do not have sufficient accrued time to cover the entire time necessary for required treatment may apply for a leave-of-absence while undergoing voluntary treatment.

IV. SAFETY-SENSITIVE AND/OR SECURITY-SENSITIVE POSITIONS

A. Police Officers and Firefighters

Due to the serious nature of their duties in protecting and serving the community, police officers and firefighters occupy security-sensitive and/or safety-sensitive positions. Drug or alcohol impairment of a police officer or firefighter can cause grave danger and serious personal injury and property damage to the employee, fellow workers and all members of our community. Accordingly, such City employees and applicants for such positions are subject to a wider

range of drug and alcohol testing (as set forth specifically herein) than City employees in general.

B. Drivers with Commercial Drivers' Licenses

The City recognizes that drivers bear special consideration. Federal legislation requires strict monitoring of employees who are authorized to drive commercial motor vehicles pursuant to a CDL. The special provisions in this policy for drivers have been implemented in accordance with the U.S. Department of Transportation's Federal Motor Carrier Safety Regulations, and are intended to apply to all applicants for positions requiring a CDL, and all employees who possess a CDL. These provisions also applies to current employees who subsequently obtain a CDL. Accordingly, such City employees and applicants for such positions are subject to a wider range of drug and alcohol testing (as set forth specifically herein) than City employees in general.

C. Operators of City Vehicles

The City further recognizes that individuals who operate City vehicles as their primary job duty bear special consideration as well. Misuse of a City vehicle in public can cause grave danger and serious personal injury and property damage. Accordingly, such City employees and applicants for such positions are subject to a wider range of drug and alcohol testing (as set forth specifically herein) than City employees in general.

V. SPECIAL PROVISIONS FOR DRIVERS AND OPERATORS

A City driver or operator shall not use alcohol during the performance of safety sensitive functions or perform safety sensitive functions within four (4) hours of using alcohol. Drug and alcohol testing may be performed while the driver is performing a safety sensitive function, just before the driver is to perform a safety sensitive function, and just after the driver has ceased performing such functions.

A driver or operator shall not report for duty or remain on duty when his/her job requires performing safety sensitive functions if he/she has been using drugs or has tested positive for drug use.

A. "Safety Sensitive Function" Defined for Drivers and Operators

For drivers and operators, the term " safety sensitive function" shall include:

- (1) Waiting at a terminal, facility, or other property to be dispatched, unless the driver has been relieved from duty;
- (2) Performing pre-trip inspections or servicing the motor vehicle;
- (3) Driving the motor vehicle;

(4) Loading or unloading the vehicle, supervising the loading or unloading, giving receipts for the load, or remaining in readiness to operate the motor vehicle;

(5) Performing duties and services at an accident scene; or,

(6) Repairing, obtaining assistance, or remaining in attendance of a disabled vehicle.

The foregoing list is intended to provide guidance as to the types of activities considered to be safety sensitive and is not exhaustive.

B. Drivers or Operators on Stand-by or On-Call

Drivers or operators who are on standby to perform regular work functions are expected to be in a condition to perform safety sensitive functions immediately upon being called to do so. Standby drivers should not engage in any activity that would prevent their being called to duty while on standby status.

Drivers or operators who are "on call" are those that may or may not be needed to work during regular off hours. Drivers who are called to work from an on-call status have an affirmative duty to inform the dispatcher or their supervisor as to whether they have engaged in activities (e.g., have consumed alcohol or taken illegal drugs) during the off hours that would alter their ability to perform safety sensitive functions. Failure to notify the dispatcher of such condition is a violation of City policy and may result in discipline up to and including discharge.

VI. PROHIBITIONS

A. Definitions

As used within the City of Neosho Alcohol and Drug Abuse Policy, the following terms shall be defined as stated below:

1. "Substance abuse" is defined as: (a) reporting to work, working, or otherwise pursuing City business while under the influence of or impaired by alcohol or any other drug; (b) chemical dependency on, or abuse of, alcohol or any other drug where the job performance or safety of employees is adversely affected; or (c) the use of any illegal drug.

2. The term "illegal drugs" as used in this policy means any drug or substance whose possession and/or use are prohibited under State and Federal law. It also includes all prescription and over-the-counter drugs not legally obtained or not being used for the purpose or in the manner for which they were prescribed and/or manufactured as well as any substance other than alcohol, capable of altering the user's judgment, perception, or mood, or of impairing the user's physical or mental reactions.

3. "Alcohol" or "alcoholic beverage" means any consumable substance that has a measurable alcohol content.

4. A "positive: alcohol test is one in which the test result is .02 or greater.

5. A "positive" drug test is one in which the test result equals or exceeds the following specified nanogram per milliliter (ng/ml) levels:

DRUGS	INITIAL TEST	CONFIRMATION (ng/ml)
Marijuana	50	15
Cocaine	300	150
Opiates	300	
Amphetamine		500
Methamphetamine		500
Barbituates	200	200
Benzodiazepines	300	150
Methadone	300	300
Methaqualone	300	300
Propoxyphene	300	300

B. Prohibited Conduct

Conduct which is prohibited and for which the City may impose disciplinary action, up to and including discharge, includes, but is not limited to, the following:

1. Use, possession, manufacture, distribution, dispensation, transfer, or sale of illegal drugs on work premises, in City vehicles, during working hours, or while on City business;

2. Unauthorized use or possession, or any manufacture, distribution, dispensation, or sale of alcohol on work premises in City vehicles, during working hours, or while engaged in City business;

3. Storing in a locker, desk, automobile, or other repository on work premises any illegal drug, or any alcohol;

4. Being under the influence of an illegal drug, or alcohol on work premises, in City vehicles, during working hours, or while on City Business;

5. Use of alcohol off work premises that diversely affects the employee's work performance, his/her own safety, or the safety of others at work;

6. Possession, use, manufacture, distribution, dispensation, transfer, or sale of illegal drugs off work premises that adversely affects the employee's work performance, his or her own safety, or the safety of other persons at work;

7. Switching, adulterating, or attempting to switch or adulterate any urine sample submitted for testing;

8. Refusing to consent to testing or to submit to testing when requested by management, including failure to provide an adequate amount of the requested test sample; and,

9. Refusing to sign a statement agreeing to abide by the City's Alcohol and Drug Abuse policy, and/or refusing to complete required forms and questionnaires regarding drug and alcohol testing.

Further, prohibited conduct by drivers and operators also includes the following:

1. Reporting for or remaining on duty to perform a safety sensitive function while under the influence of alcohol or illegal drugs;

2. Reporting for or remaining on duty to perform a safety sensitive function, if the driver test positive for alcohol or illegal drugs;

3. Using alcohol or illegal drugs while performing safety sensitive functions.

4. Being on duty or operating a City motor vehicle while possessing alcohol or illegal drugs;

5. Performing safety sensitive functions within four (4) hours of using alcohol;

6. Using alcohol within eight (8) hours following an accident unless the driver has been given a post-accident test; and,

7. Refusing to provide written authorization for the City to obtain information from a driver's or applicant's previous employer, during the two years prior to application, concerning alcohol tests with a result of 0.04 alcohol content or greater, verified positive controlled substance test results, and refusals to be tested.

VII. AUTHORIZED USE OF PRESCRIBED MEDICINE

Employees undergoing prescribed medical treatment with any drug that may alter their behavior or physical or mental ability must report this treatment to their supervisor, Department Head or the City Manager, who will determine whether the employee should temporarily be assigned a different job during the period of treatment. Employees must keep all prescribed medicine in its original container so that it identifies the drug, date of prescription, and prescribing doctor. Employees who do not report their use of such prescribed drugs as required may be found in violation of this policy and subject to discipline, up to and including discharge.

VIII. TESTING OF CITY EMPLOYEES

Differences in drug and/or alcohol testing applicable specifically to individuals employed in safety-sensitive and/or security-sensitive positions as defined in Section IV of this policy is set forth separately below under each subsection. Such differences apply only to the positions indicated.

City employees shall be required to undergo testing in the following circumstances:

A. Pre-employment Testing

The City requires that every newly hired employee be free of drug use. Therefore, each offer of employment shall be conditioned upon the passing of a urine test for drugs. The City shall not hire any applicant who fails to pass the pre-employment drug test.

1. Drivers

Pursuant to federal regulations, those persons the City intends to hire for positions requiring a CDL must be tested for drug use prior to employment. The City also will test current employees who obtain a CDL (i.e., those employees who become drivers). Federal regulations provide that, for drug testing, a negative test result must be received before the driver makes the first trip.

B. Reasonable Suspicion Testing

The City shall conduct reasonable suspicion drug and/or alcohol testing. Reasonable suspicion means that the City believes that the employee's appearance or conduct is indicative of the use of alcohol and/or illegal drugs. The circumstances that may lead to reasonable suspicion testing include, but are not limited to,

- (1) Observed use, possession, or sale of illegal drugs and/or use, sale, possession or abuse of alcohol;
- (2) Apparent physical state of impairment or motor function;
- (3) Marked changes in personal behavior not attributable to other factors;

(4) Employee involvement in or contribution to an accident where the use of alcohol or illegal drugs is reasonably suspected or employee involvement in a pattern of repetitive accidents, whether or not they involve actual or potential injury.

Whenever the City suspects that an employee's work performance or on-the-job behavior may have been affected in any way by alcohol or illegal drugs, or that an employee has otherwise violated this policy, the City may require the employee to submit to a drug and/or alcohol test. An employee who tests positive for alcohol or drugs as a result of such a test will be in violation of this policy and will be subject to discipline, up to and including discharge.

1. Drivers

Pursuant to federal regulations, drivers who the City reasonably suspects of using illegal drugs or alcohol shall be tested. Reasonable suspicion means that the City believes that the driver's appearance, behavior, or conduct are indicative of the use of alcohol and/or illegal drugs. The actions or observations of the driver must occur while the driver is on duty, just preceding, or immediately after the employee ceased performing a safety sensitive function. The conduct, appearance, or actions of the driver must be observed by a supervisor or other City official trained to determine whether reasonable suspicion exists.

Alcohol test under this part should be conducted within 2 hours following the reasonable suspicion determination, unless there are extenuating circumstances, in which the testing may be conducted within 8 hours of the determination.

C. Random Testing

Such testing will be performed only on those individuals employed in safety-sensitive and/or security-sensitive positions as defined in Section IV of this policy.

1. Drivers

Pursuant to federal regulations, random testing ensures that every driver has an equal chance of being tested. Random tests are unannounced. The regulations provide that a minimum of 50% of the average number of driver positions for the year is to be used in drug testing, although this rate may be reduced by the federal government to 25%. For alcohol testing, the random rate is 25%. Further, random alcohol testing of drivers will be done while performing, just before, or just after ceasing the performance of safety-sensitive functions by a driver. The selection of drivers to be randomly tested shall be made by the City's approved drug testing facility. For purposes of complying with the federal regulations, only those individuals possessing commercial driver's licenses will be included as part of the driver group for determining the required number to be tested.

2. Police Officers, Firefighters and Operators

Random testing of police officers, firefighters and operators likewise ensures that each such employee has an equal chance of being tested in an unannounced random test. Random testing of such employees will be performed at various times during the year using an appropriate scientific method for determining those to be randomly tested. Unlike drivers, the City is not required to test any specific number of such employees in any time period and will determine the numbers and timing in its discretion. The selection of such City employees to be randomly tested shall be made by the Cities approved drug testing facility.

D. Post-Accident Testing

Any time a City employee suffers a work-related injury or is involved in an accident of any kind while working that involves any damage to person or property, such employee must submit to an alcohol and/or drug test. Such employee must notify his/her supervisor, department head or the City Manager as soon as possible following the injury or accident.

1. Drivers and Operators

Pursuant to federal regulations, any time a driver is involved in a vehicular accident resulting in a fatality, or when the driver receives a citation for a moving violation for an incident that involves bodily injury to anyone who requires medical treatment or vehicular damage that requires towing, the driver must submit to an alcohol and/or drug test. A driver involved in an accident must notify his/her supervisor, Department Head or the City Manager as soon as possible following the accident.

The alcohol test should be conducted within 2 hours following the accident, unless there are extenuating circumstances, in which case the testing may be conducted within 8 hours following the accident. The drug test should be conducted within 32 hours following the accident.

Any driver subject to post-accident testing who leaves the scene of an accident before a drug and alcohol test is administered or fails to remain readily available for testing may be deemed to have refused to submit to testing. Such a refusal is treated as if the driver had a verified positive drug and/or alcohol test result of .04 or greater. If the drug and/or alcohol test is administered by on-site police or public safety officials under separate authority, such test will meet the driver's obligation to have that test conducted.

With regard to post-accident testing, operators are treated in the same manner as drivers. Further, while federal regulations are not as stringent, drivers and operators are required to undergo drug and/or alcohol testing following any vehicular accident.

E. Return to Duty and Follow-up Testing

1. Police Officers and Firefighters

Police Officers and firefighters found in violation of the prohibited conduct in Section VI of this policy, and whose employment was not terminated, shall be tested for alcohol and/or illegal drugs before being allowed to return to performing safety sensitive functions. These regulations also provide that the driver must test negative for drugs and have an alcohol test result indicating an alcohol test concentration of less than .02 blood alcohol content ("BAC") before returning to duty.

Drivers who are determined to be in need of assistance with drugs or alcohol problems, and who have not been terminated, shall be subject to unannounced follow-up testing for alcohol and/or drugs after resuming his/her safety sensitive duties. Drivers who are determined to have such problems will be tested, at least, six times in the first twelve months of resuming such duties and may be tested for alcohol and/or drugs on an unannounced basis for a period of five (5) years.

Operators who are found in violation of the prohibited conduct in Section VI of this policy, and whose employment was not terminated, also shall be tested for alcohol and/or illegal drugs before being allowed to return to performing his/her duties. Operators are subject to the same requirements as drivers in return-to-duty and follow-up testing.

IX. POLICY FOR TESTING

Prior to testing, the City will afford applicants and employees subject to testing the opportunity to list all prescription and non-prescription drugs that they have used in the last 30 days and to explain the circumstances surrounding their use of such drugs.

Prior to testing, applicants and employees subject to testing must sign an approved form consenting to the testing and consenting to the release of the test results to appropriate management personnel of the City.

The City utilizes a Medical Review Officer ("MRO") to review drug test results. Prior to taking any action on a positive test result, the City will give applicants and employees who test positive for alcohol or drugs the opportunity to explain confirmed positive test results to the City's MRO.

X. TESTING PROCEDURES FOR CITY EMPLOYEES AND APPLICANTS

A. Testing

1. Alcohol testing

Alcohol testing shall be performed by testing breath of the employee, and shall be tested using an Evidential Breath Testing device ("EBT"). The EBT is a scientific instrument that determines the concentration of alcohol expressed as "percent by weight." It does this by analyzing a specific volume of expired breath. The weight of

alcohol in the breath sample is determined and the quantity of the alcohol converted to its equivalent value in blood.

2. Drug Testing

For drug testing, a City employee shall submit a urine sample at the designated collection site. Two tests may be performed by the laboratory. The initial drug test shall be an immunoassay test. This is a screening test to determine usage for the classes of drugs to be tested for under this policy. The second test is a confirmatory test.

B. Testing Facility

1 Alcohol Testing

Alcohol testing and analysis shall be performed at the Cities approved drug testing facility by Breath Alcohol Technicians who are certified under the rigid standards of the Department of Transportation ("DOT") drug and alcohol testing guidelines except in those situations where this is impracticable. The equipment used in the alcohol testing also meets such DOT drug and alcohol testing guidelines. The testing is performed in a site that affords privacy to employees being tested whenever possible. In those instances where it is impracticable to test at the Cities approved drug testing facility, such as post-accident testing, the testing site shall be that site designated by on-site police or public safety officials, or any site that is most practicable under the circumstances and testing may be performed by on-site police or public safety officials.

2. Drug Testing

For drug testing, the designated collection site shall be the Cities approved drug testing facility by an appropriate collection technician who shall ensure that the collection is made in compliance with applicable regulatory guidelines. The laboratory testing for drugs shall be performed by the Cities approved drug testing facility which is approved by the Health and Human Services Department of the Federal Government to perform such testing.

For reasonable suspicion drug testing and drug testing during a time period when the Cities approved drug testing facility is closed, the collection site shall be the most reasonable site available under the circumstances. The collection shall be made by a collection technician, who shall ensure that the collection is made in compliance with applicable regulatory guidelines. All other conditions for submitting a urine sample, as detailed below, shall be followed as much as is practicable.

For post-accident drug testing, the collection site shall be that site designated by on-site police or public safety officials, or any site that is most practical under the circumstances.

C. Collection and Chain of Custody

1. Alcohol Testing

An employee required to undergo an alcohol test shall be required to submit a breath sample at the designated collection site. Prior to taking the breath test, an employee will be required to produce a picture I.D. The testing is performed in a site that affords privacy to the employee being tested whenever possible.

An alcohol test may have two separate parts. The first is the initial test. If the initial test result is .02 BAC or greater, a confirmatory test will be performed. The first part of the testing is to make sure the EBT is operating properly. In the employee's presence the technician runs an "air blank" test to make sure the EBT is working correctly and the reading is zero. Next, a sealed mouthpiece is opened and placed into the EBT. In order to get a sufficient quantity of deep lung air, the employee is requested to blow into the mouthpiece for at least 6 seconds, or until the EBT indicates that an adequate amount of breath has been obtained. The EBT will immediately read the results of the test.

2. Drug Testing

For drug testing, urine samples are collected in restrooms at the collection site in specially provided containers. Prior to giving the urine sample, an applicant or employee will be required to produce a picture I.D. Applicants and employees are not allowed to carry any personal belongings into the restroom, and no one else is permitted in the restroom during the giving of the urine sample, except for those limited circumstances in which a monitor is permitted to observe the giving of the sample, as detailed below. The applicant or employee must wash and dry their hands before giving the urine sample. Wherever possible, the restroom where the sample is given shall have the water turned off and a blue stain in the commode to prevent false specimens.

Where the collecting technician determines, based on the temperature of the specimen or other alteration of the specimen, or through personal observation, that the applicant or employee is attempting to give a false specimen, the technician shall thereafter invalidate the sample and require a new sample be given. A monitor of the same sex as the applicant or employee giving the sample shall physically observe the applicant or employee as he/she give the new specimen. The collecting technician shall also document the suspected giving of a false specimen.

After giving the specimen to the technician, the applicant or employee shall watch the technician seal the tamper proof bag containing the urine specimen and prepare the appropriate paperwork on the sample. The applicant or employee will be asked to sign the chain of custody form. The sample is then tested in the laboratory at the Cities approved drug testing facility. At the laboratory the sample's I.D. is verified and it is verified that there has been no tampering of the tamper proof bag. The test result is then reported back to the clinic using an I.D. number.

D. Positive Test Results

The City utilizes a Medical Review Officer ("MRO") to review all positive drug and alcohol test results.

1. Alcohol Testing

When the initial alcohol test is positive, a confirmation test is necessary. Before the confirmation test, a 15 minute waiting period will be observed. The purpose of the 15 minute waiting period is to ensure that the presence of mouth alcohol from recent use of food, tobacco, or hygiene products, does not artificially raise the test result. As the confirmation test is done on the same EBT as the first test, the testing procedures will be the same.

When the alcohol confirmation result is different from the initial test, the lower of the two results will be used to determine the consequences.

2. Drug Testing

An applicant or employee whose drug test yields a positive result shall be given a confirmatory test using gas chromatography/mass spectrometry techniques. This test typically is performed in an entirely different manner from the initial one. If the second test confirms the positive test result, the applicant or employee shall be notified of the results in writing by the MRO. The applicant or employee may then discuss the positive test result with the MRO and explain confirmed positive test results.

A spit specimen collection will be done. That is, the urine is divided into two specimen bottles. If the test result of the primary specimen is positive, the City employee or applicant for the position may request the MRO to send the second (or split) specimen to a different certified lab for testing. The testing of the split specimen will be for the presence of drugs with no cut-off levels and must be made by the employee within 3 days of being notified of a positive test result. An applicant or employee whose second test confirms the original positive test results may, within 3 days from notification of the confirmation test result, at the employee's or applicant's expense, have a third test conducted on the same sample at a laboratory selected by the City of Neosho.

E. Use of Test Results

All test results are confidential and will be revealed to the City Manager and other appropriate City management personnel on a "need-to-know" basis only. Any tested employee may receive a copy of his/her test results by making a written request. Positive test results shall not be used for criminal prosecution, except where required by law or court order.

XI. CONSEQUENCES OF A POSITIVE DRUG OR ALCOHOL TEST

Violation of the City's Alcohol and Drug abuse Policy may result in severe disciplinary action for a first offense, including discharge at the City's discretion. Applicants for city employment who test positive for illegal drugs shall not be used for criminal prosecution, except where required by law or court order.

A. Special Provisions for Alcohol Test RESULTS of Drivers & Operators

1. Drivers Who Test .04 BAC and Above

Federal regulations provide that a driver who tests .04 BAC or above on the alcohol test shall be removed immediately from performing safety sensitive functions and suspended pending further investigation into the circumstances surrounding the test results. While federal regulations are not as stringent, it is the City's policy that a test result of .04 BAC or greater constitutes a violation of City policy and the driver shall be subject to discipline up to and including discharge. If not discharged, the driver shall be subject to periodic follow-up testing, as required by federal regulations.

2. Alcohol Test of between .02 and .04 BAC

Federal regulations provide that a driver found to have a BAC of .02 or greater but less than .04 shall be removed immediately from performing safety sensitive functions and shall not perform safety sensitive functions until the start of the driver's next scheduled duty period, but not less than 24 hours following the test. While federal regulations are not as stringent, it is the City's policy that a test result between .02 and .04 constitutes a violation of City policy and may result in discipline of the driver up to and including discharge. If not discharged, the driver shall be subject to periodic follow-up testing, as required by federal regulations.

Operators who are found to have a BAC between .02 and .04 or .04 and above, are treated the same as drivers as described in the above subsections. It is the City's policy that test results at these BAC levels constitutes a violation of City policy and may result in discipline of the operator up to and including discharge. If not discharged, the operator shall be subject to periodic follow-up testing, as required by this Policy.

3. Assessment of Drivers By A Substance Abuse Professional

Pursuant to federal regulations, a driver who tests positive for the presence of illegal drugs or alcohol above the minimum thresholds set forth in this policy shall be evaluated by a Substance Abuse Professional ("SAP"). The SAP will evaluate the driver who tests positive to determine what assistance, if any, he/she needs in resolving problems associated with illegal drug use or alcohol misuse. This may be done through the City's health insurance plan.

Assessment by a SAP will not prevent disciplinary action, up to and including discharge, for violation of the City's Alcohol and

Drug Abuse Policy. Drivers who undergo this evaluation and who continue to work must meet all established standards of conduct and job performance as well as comply with any rehabilitation program designed by the SAP.

XII. REHABILITATION ASSISTANCE

City employees seeking and undergoing treatment for alcohol or drug abuse under the City's health insurance plan, and who have not been terminated, shall agree to undertake and successfully complete the rehabilitation program established for the employee by the health care provider under the insurance plan. The employee will provide a release for all medical records to the City for use and review by the City to monitor and assess compliance with this rehabilitation program. The employee must agree to refrain from any violation of this Policy or the rehabilitation program. Further, the employee must agree that any future controlled substance and/or alcohol use violating the provisions of this Policy or the rehabilitation program shall be deemed to be a resignation by the employee without recourse. Finally, the employee must submit to all Return-to Duty and Follow-up testing that may be required under this Policy.

XIII OPPORTUNITY TO EXPLAIN CONFIRMED POSITIVE TEST RESULTS

Prior to taking any action as the result of a positive drug or alcohol test, the City shall provide all City employees with the opportunity to explain confirmed positive test results.

XIV. REFUSAL TO SUBMIT TO A TEST

It is the City's policy that refusal to submit to an alcohol or drug test when required constitutes a violation of this Policy and may subject the employee to discipline up to and including discharge. Applicants who refuse to submit to a pre-employment test shall not be hired.

A. Special Provisions for Drivers and Operators

All drivers, operators and applicants for such positions are required to submit to alcohol and drug tests in the circumstances described in Section VI of the policy.

Federal regulations provide that a driver shall not refuse to submit to a post-accident test, reasonable suspicion test, random test, or follow-up test. Drivers who refuse to submit to a required test shall be suspended pending further investigation.

In alcohol testing, the refusal to take the breath test immediately upon being requested to do so constitutes a refusal to take the test. Not providing an adequate amount of breath may, under certain conditions, be regarded as a refusal to take a test. In drug testing, failure to provide sufficient urine may constitute a refusal.

With regard to refusal to submit to a test, operators are treated in the same manner as drivers.

XV. INSPECTIONS

All property belonging to the City is subject to inspection at any time without notice, as there is no expectation of privacy. This property includes, but is not limited to, City vehicles, desks, containers, files, and storage lockers.

XVI. ARREST OR CONVICTION UNDER A CRIMINAL DRUG STATUTE

Employees must notify their Department Head or the City Manager within 5 days of any arrest or conviction under any criminal drug statute.

Should such employee be working on a federal program or receive wages from federal grant monies, the City is required to notify the granting agency of drug related convictions occurring in the workplace within 10 days. Within 30 days of receiving notice from the employee, the City will take appropriate disciplinary action, up to and including discharge, or require participation in a rehabilitation program at its sole discretion.

XVII. CONTACT PERSON

As part of our continuing policy to ensure fair and equal treatment of our drivers, the City recognizes that there may be questions or concerns involving the City of Neosho Alcohol And Drug Abuse Policy. To assist in understanding these requirements, the City has designated the City Manager to answer questions regarding alcohol and drug testing. The City encourages its employees to contact the City Manager with any questions concerning this policy.

XVIII. GOOD FAITH COMPLIANCE

The City adopts this policy for the purposes stated herein and as part of its good faith effort to comply with the Department of Transportation's regulations. The City will continue to follow these regulations as interpreted, modified, or amended.

XIX. AMENDMENTS

This policy is subject to amendment by the City of Neosho from time to time. Amendments that are made shall be provided to employees upon adoption and shall become effective as provided by the City.

CITY OF NEOSHO

Acknowledgement of Receipt and Authorization for
Alcohol and Drug Testing

I hereby acknowledge that I have a received copy of the City of Neosho Alcohol and Drug Abuse Policy. I agree to read the City's Alcohol and Drug Abuse Policy, and keep the policy for future reference. I agree to abide by the policy and I give the City permission to test me, and I agree to submit to such tests, for the purpose of detecting the presence of alcohol or drugs under the circumstances set forth in the Alcohol and Drug Abuse Policy. I also give my permission to have the appropriate tests run on any specimen or sample I submit as part of my compliance with this policy.

I hereby consent to allow the City to search City property in my possession or under my control, including but not limited to my desk, locker, and/or City vehicle, under the circumstances set forth in the Alcohol and Drug Abuse Policy. The consent to search given in this authorization shall in no way be construed to limit the right of the City to perform administrative workplace searches for other purposes permitted under the laws and cases of the United States and of the State of Missouri.

I understand that I will be subject to, and agree to abide by, the City's present and/or future Policy on Alcohol and Drug Abuse, and the disciplinary guidelines for violating the Policy.

I authorize the administrator of such tests to release the results of the tests to the City Manager and other appropriate management personnel.

I have read this authorization in full, and understand and agree to its contents.

NAME (print) _____

SIGNATURE _____

DATE _____

CITY OF NEOSHO

City Employee Possessing Commercial Driver's License:
Authorization to Release Alcohol and Drug Testing Information

I hereby grant permission to all previous employer(s) during the two years prior to my application with the City to release to the City information concerning controlled substance and/or alcohol testing that I may have undergone under the U.S. Department of Transportation's Federal Motor Carrier Safety Regulations. This authorization includes my permission to release to the City of Neosho all information concerning alcohol tests with a result of 0.04 alcohol content or greater, verified positive controlled substance test results, and refusals to be tested as well as subsequent compliance with any related rehabilitation assistance plan or further required controlled substance or alcohol testing.

The release of this information may take the form of personal interviews, telephone interviews, letters or any other method that ensures the confidentiality of this information.

I have read this authorization in full, and understand and agree to its contents.

NAME(print) _____

SIGNATURE _____

DATE _____

CITY OF NEOSHO
ALCOHOL AND DRUG ABUSE POLICY

I. PURPOSE

The City of Neosho ("City") is concerned about the effects of the use of illegal drugs and/or the abuse of alcohol upon the health and safety of its employees. As a general policy, the City prohibits and is opposed to any situation where the usage of alcohol or drugs interferes with an employee's health or job performance, the interests of the public, poses a safety problem, adversely affects the job performance of any other employee, or is considered detrimental to the City's business in any other manner. Employees who abuse drugs and alcohol can be a danger to themselves, their fellow employees, members of the public and to City property.

The City is committed to provide safe, dependable, and economical services to its citizens and to provide safe working conditions for its employees, and to comply with the requirements of federal law and regulations related to the Drug Free Workplace Act of 1988 and the Omnibus Transportation Employee Testing Act of 1991. It is also the policy of the City of Neosho to provide healthy, satisfying, working environments for its employees. Therefore, the City has adopted this written Alcohol and Drug Abuse Policy.

The City will comply with the requirements for testing of the U.S. Department of Transportation and other applicable federal and state laws and regulations.

II. SCOPE OF POLICY

This Alcohol And Drug Abuse Policy shall apply to all City employees (including all salaried, exempt, non-exempt, hourly, regular, part-time, seasonal and temporary employees) and all applicants for such positions.

Additionally, certain City positions bear special consideration. Thus, individuals and applicants for such positions as set forth more specifically herein will be subject to a wider range of alcohol and/or drug testing than City employees in general.

Special provisions in this policy apply specifically to City employees who possess a commercial drivers license ("CDL") regardless of the amount of time or frequency actually spent driving commercial motor vehicles on behalf of the City (hereafter referred to as "drivers").

Special provisions in this policy also apply specifically to employees in safety-sensitive and/or security-sensitive positions (such as police officers and firefighters) as well as those whose primary job duties involve the operation of City vehicles (hereafter referred to as "operators").

III. ASSISTANCE FOR EMPLOYEES WHO VOLUNTARILY SEEK HELP FOR ALCOHOL OR DRUG ABUSE

Early recognition and treatment of alcohol or drug abuse is important for successful rehabilitation, for the economic good-health of the City, and for reduced personal, family, and social disruption. The City encourages the earliest possible diagnosis and treatment for alcohol or drug abuse and supports sound treatment efforts. Whenever feasible, the City will try to assist employees in overcoming drug or alcohol abuse. However, the decision to seek diagnosis and accept treatment for alcohol or drug abuse is the individual employee's responsibility.

Disciplinary action shall not be taken against an employee who voluntarily identifies himself/herself as a drug and/or alcohol abuser, provided he/she seeks assistance prior to being required by the City to undergo a drug and/or alcohol test, and, after requesting such assistance, refrains from violating the City's policy against drug and alcohol abuse as well as complies with any required treatment program.

Voluntarily seeking assistance with drug and/or alcohol abuse will not prevent disciplinary action for violation of the City of Neosho Alcohol and Drug Abuse Policy, however. Employees who undergo voluntary counseling or treatment for such problems and who continue to work must meet all established standards of conduct and job performance.

Employees with personal alcohol or drug abuse problems should seek treatment through the City's health insurance plan. Employees may seek help without the approval or even knowledge of their supervisor. However, when dealing with possible leaves of absence, this may not be possible. Employees seeking treatment for personal alcohol or drug abuse problems may use accrued leave time for time required away from their job. Those employees who do not have sufficient accrued time to cover the entire time necessary for required treatment may apply for a leave-of-absence while undergoing voluntary treatment.

IV. SAFETY-SENSITIVE AND/OR SECURITY- SENSITIVE POSITIONS

A. Police Officers and Firefighters

Due to the serious nature of their duties in protecting and serving the community, police officers and firefighters occupy security-sensitive and/or safety- sensitive positions. Drug or alcohol impairment of a police officer or firefighter can cause grave danger and serious personal injury and property damage to the employee, fellow workers and all members of our community. Accordingly, such City employees and applicants for such positions are subject to a wider range of drug and alcohol testing (as set forth specifically herein) than City employees in general.

B. Drivers with Commercial Drivers' Licenses

The City recognizes that drivers bear special consideration. Federal legislation requires strict monitoring of employees who are authorized to drive commercial motor vehicles pursuant to a CDL. The special provisions in this policy for drivers have been implemented in accordance with the U.S. Department of Transportation's Federal Motor Carrier Safety Regulations, and are intended to apply to all applicants for positions requiring a CDL, and all employees who possess a CDL. These provisions also applies to current employees who subsequently obtain a CDL. Accordingly, such City employees and applicants for such positions are subject to a wider range of drug and alcohol testing (as set forth specifically herein) than City employees in general.

C. Operators of City Vehicles

The City further recognizes that individuals who operate City vehicles as their primary job duty bear special consideration as well. Misuse of a City vehicle in public can cause grave danger and serious personal injury and property damage. Accordingly, such City employees and applicants for such positions are subject to a wider range of drug and alcohol testing (as set forth specifically herein) than City employees in general.

V. SPECIAL PROVISIONS FOR DRIVERS AND OPERATORS

A City driver or operator shall not use alcohol during the performance of safety sensitive functions or perform safety sensitive functions within four (4) hours of using alcohol. Drug and alcohol testing may be performed while the driver is performing a

safety sensitive function, just before the driver is to perform a safety sensitive function, and just after the driver has ceased performing such functions.

A driver or operator shall not report for duty or remain on duty when his/her job requires performing safety sensitive functions if he/she has been using drugs or has tested positive for drug use.

A. "Safety Sensitive Function" Defined for Drivers and Operators

For drivers and operators, the term "safety sensitive function" shall include:

- (1) Waiting at a terminal, facility, or other property to be dispatched, unless the driver has been relieved from duty;
- (2) Performing pre-trip inspections or servicing the motor vehicle;
- (3) Driving the motor vehicle;
- (4) Loading or unloading the vehicle, supervising the loading or unloading, giving receipts for the load, or remaining in readiness to operate the motor vehicle;
- (5) Performing duties and services at an accident scene; or,
- (6) Repairing, obtaining assistance, or remaining in attendance of a disabled vehicle.

The foregoing list is intended to provide guidance as to the types of activities considered to be safety sensitive and is not exhaustive.

B. Drivers or Operators on Stand-by or On-Call

Drivers or operators who are on standby to perform regular work functions are expected to be in a condition to perform safety sensitive functions immediately upon being called to do so. Standby drivers should not engage in any activity that would prevent their being called to duty while on standby status.

Drivers or operators who are "on call" are those that may or may not be needed to work during regular off hours. Drivers who are called to work from an on-call status have an affirmative duty to inform the dispatcher or their supervisor as to whether they have engaged in activities (e.g., have consumed alcohol or taken illegal drugs) during the off hours that would alter their ability to perform safety sensitive functions. Failure to notify the dispatcher of such condition is a violation of City policy and may result in discipline, up to and including discharge.

VI. PROHIBITIONS

A. Definitions

As used within the City of Neosho Alcohol And Drug Abuse Policy, the following terms shall be defined as stated below:

1. "Substance abuse" is defined as: (a) reporting to work, working, or otherwise pursuing City business while under the influence of or impaired by alcohol or any other drug; (b) chemical dependency on, or abuse of, alcohol or any other drug where the job performance or safety of employees is adversely affected; or (c) the use of any illegal drug.
2. The term "illegal drugs" as used in this policy means any drug or substance whose possession and/or use are prohibited under State or Federal law. It also includes all prescription and over-the-counter drugs not legally obtained or not being used for the purpose or in the manner for which they were prescribed and/or manufactured as well as any substance other than alcohol, capable of altering the user's judgment, perception, or mood, or of impairing the user's physical or mental reactions.
3. "Alcohol" or "alcoholic beverage" means any consumable substance that has a measurable alcohol content.
4. A "positive" alcohol test is one in which the test result is .02 or greater.

5. A "positive" drug test is one in which the test result equals or exceeds the following specified nanogram per milliliter (ng/ml) levels:

<u>Drugs</u>	<u>Initial Test (ng/ml)</u>	<u>Confirmation (ng/ml)</u>
Marijuana	50	15
Cocaine	300	150
Opiates	300	
Morphine		300
Codeine		300
Phencyclidine	25	25
Amphetamines	1000	
Amphetamine		500
Methamphetamine		500
Barbituates	200	200
Benzodiazepines	300	150
Methadone	300	300
Methaqualone	300	300
Propoxyphene	300	300

B. Prohibited Conduct

Conduct which is prohibited and for which the City may impose disciplinary action, up to and including discharge, includes, but is not limited to, the following:

1. Use, possession, manufacture, distribution, dispensation, transfer, or sale of illegal drugs on work premises, in City vehicles, during working hours, or while on City business;
2. Unauthorized use or possession, or any manufacture, distribution, dispensation, or sale of alcohol on work premises, in City vehicles, during working hours, or while engaged in City business;
3. Storing in a locker, desk, automobile, or other repository on work premises any illegal drug, or any alcohol;
4. Being under the influence of an illegal drug, or alcohol on work premises, in City vehicles, during working hours, or while on City business;
5. Use of alcohol off work premises that adversely affects the employee's work performance, his/her own safety, or the safety of others at work;
6. Possession, use, manufacture, distribution, dispensation, transfer, or sale of illegal drugs off work premises that adversely affects the employee's work performance, his or her own safety, or the safety of other persons at work;
7. Switching, adulterating, or attempting to switch or adulterate any urine sample submitted for testing;
8. Refusing to consent to testing or to submit to testing when requested by management, including failure to provide an adequate amount of the requested test sample; and,
9. Refusing to sign a statement agreeing to abide by the City's Alcohol and Drug Abuse policy, and/or refusing to complete required forms and questionnaires regarding drug and alcohol testing.

Further, prohibited conduct by drivers and operators also includes the following:

1. Reporting for or remaining on duty to perform a safety sensitive function while under the influence of alcohol or illegal drugs;
2. Reporting for or remaining on duty to perform a safety sensitive function, if the driver tests positive for alcohol or illegal drugs;
3. Using alcohol or illegal drugs while performing safety sensitive functions;
4. Being on duty or operating a City motor vehicle while possessing alcohol or illegal drugs;
5. Performing safety sensitive functions within four (4) hours of using alcohol;
6. Using alcohol within eight (8) hours following an accident unless the driver has been given a post-accident test; and,
7. Refusing to provide written authorization for the City to obtain information from a driver's or applicant's previous employer, during the two years prior to application, concerning alcohol tests with a result of 0.04 alcohol content or greater, verified positive controlled substance test results, and refusals to be tested.

VII. AUTHORIZED USE OF PRESCRIBED MEDICINE

Employees undergoing prescribed medical treatment with any drug that may alter their behavior or physical or mental ability must report this treatment to their supervisor, Department Head or the City Manager, who will determine whether the employee should temporarily be assigned a different job during the period of treatment. Employees must keep all prescribed medicine in its original container so that it identifies the drug, date of prescription, and prescribing doctor. Employees who do not report their use of such prescribed drugs as required may be found in violation of this policy and subject to discipline, up to and including discharge.

VIII. TESTING OF CITY EMPLOYEES

Differences in drug and/or alcohol testing applicable specifically to individuals employed in safety-sensitive and/or security-sensitive positions as defined in Section IV of this policy is set forth separately below under each subsection. Such differences apply only to the positions indicated.

City employees shall be required to undergo testing in the following circumstances:

A. Pre-employment Testing

The City requires that every newly hired employee be free of drug use. Therefore, each offer of employment shall be conditioned upon the passing of a urine test for drugs. The City shall not hire any applicant who fails to pass the pre-employment drug test.

1. Drivers

Pursuant to federal regulations, those persons the City intends to hire for positions requiring a CDL must be tested for drug use prior to employment. The City also will test current employees who obtain a CDL (i.e., those employees who become drivers). Federal regulations provide that, for drug testing, a negative test result must be received before the driver makes the first trip.

B. Reasonable Suspicion Testing

The City shall conduct reasonable suspicion drug and/or alcohol testing. Reasonable suspicion means that the City believes that the employee's appearance or conduct is indicative of the use of alcohol and/or illegal drugs. The circumstances that may lead to reasonable suspicion testing include, but are not limited to,

- (1) Observed use, possession, or sale of illegal drugs and/or use, sale, possession or abuse of alcohol;
- (2) Apparent physical state of impairment or motor functions;
- (3) Marked changes in personal behavior not attributable to other factors;

(4) Employee involvement in or contribution to an accident where the use of alcohol or illegal drugs is reasonably suspected or employee involvement in a pattern of repetitive accidents, whether or not they involve actual or potential injury.

Whenever the City suspects that an employee's work performance or on-the-job behavior may have been affected in any way by alcohol or illegal drugs, or that an employee has otherwise violated this policy, the City may require the employee to submit to a drug and/or alcohol test. An employee who tests positive for alcohol or drugs as a result of such a test will be in violation of this policy and will be subject to discipline, up to and including discharge.

1. Drivers

Pursuant to federal regulations, drivers who the City reasonably suspects of using illegal drugs or alcohol shall be tested. Reasonable suspicion means that the City believes that the driver's appearance, behavior, or conduct are indicative of the use of alcohol and/or illegal drugs. The actions or observations of the driver must occur while the driver is on duty, just preceding, or immediately after the employee ceased performing a safety sensitive function. The conduct, appearance, or actions of the driver must be observed by a supervisor or other City official trained to determine whether reasonable suspicion exists.

Alcohol tests under this part should be conducted within 2 hours following the reasonable suspicion determination, unless there are extenuating circumstances, in which the testing may be conducted within 8 hours of the determination.

C. Random Testing

Such testing will be performed only on those individuals employed in safety-sensitive and/or security-sensitive positions as defined in Section IV of this policy.

1. Drivers

Pursuant to federal regulations, random testing ensures that every driver has an equal chance of being tested. Random tests are unannounced. The regulations provide that a minimum of 50% of the average number of driver positions for the year is to be used in drug testing, although this rate may be reduced by the federal government to 25%. For alcohol testing, the random rate is 25%. Further, random alcohol testing of drivers will

be done while performing, just before, or just after ceasing the performance of safety-sensitive functions by a driver. The selection of drivers to be randomly tested shall be made by Freeman Neosho Occumed. For purposes of complying with the federal regulations, only those individuals possessing commercial driver's licenses will be included as part of the driver group for determining the required number to be tested.

2. Police Officers, Firefighters and Operators

Random testing of police officers, firefighters and operators likewise ensures that each such employee has an equal chance of being tested in an unannounced random test. Random testing of such employees will be performed at various times during the year using an appropriate scientific method for determining those to be randomly tested. Unlike drivers, the City is not required to test any specific number of such employees in any time period and will determine the numbers and timing in its discretion. The selection of such City employees to be randomly tested shall be made by Freeman Neosho Occumed.

D. Post-Accident Testing

Any time a City employee suffers a work-related injury or is involved in an accident of any kind while working that involves any damage to person or property, such employee must submit to an alcohol and/or drug test. Such employee must notify his/her supervisor, department head or the City Manager as soon as possible following the injury or accident.

1. Drivers and Operators

Pursuant to federal regulations, any time a driver is involved in a vehicular accident resulting in a fatality, or when the driver receives a citation for a moving violation for an incident that involves bodily injury to anyone who requires medical treatment or vehicular damage that requires towing, the driver must submit to an alcohol and/or drug test. A driver involved in an accident must notify his/her supervisor, Department Head or the City Manager as soon as possible following the accident.

The alcohol test should be conducted within 2 hours following the accident, unless there are extenuating circumstances, in which case the testing may be conducted within 8 hours following the accident. The drug test should be conducted within 32 hours following the accident.

Any driver subject to post-accident testing who leaves the scene of an accident before a drug and alcohol test is administered or fails to remain readily available for testing may be deemed to have refused to submit to testing. Such a refusal is treated as if the driver had a verified positive drug and/or alcohol test result of .04 or greater. If the drug and/or alcohol test is administered by on-site police or public safety officials under separate authority, such test will meet the driver's obligation to have that test conducted.

With regard to post-accident testing, operators are treated in the same manner as drivers. Further, while federal regulations are not as stringent, drivers and operators are required to undergo drug and/or alcohol testing following any vehicular accident.

E. Return-to-Duty and Follow-up Testing

1. Police Officers and Firefighters

Police Officers and firefighters found in violation of the prohibited conduct in Section VI of this policy, and whose employment was not terminated, shall be tested for alcohol and/or illegal drugs before being allowed to return to performing their duties and may be required to undergo periodic follow-up testing in the City's discretion.

2. Drivers and Operators

Federal regulations provide that drivers who are found in violation of the prohibited conduct in Section VI of this policy, and whose employment was not terminated, shall be tested for alcohol and/or illegal drugs before being allowed to return to performing safety sensitive functions. These regulations also provide that the driver must test negative for drugs and have an alcohol test result indicating an alcohol test concentration of less than .02 blood alcohol content ("BAC") before returning to duty.

Drivers who are determined to be in need of assistance with drugs or alcohol problems, and who have not been terminated, shall be subject to unannounced follow-up testing for alcohol and/or drugs after resuming his/her safety sensitive duties. Drivers who are determined to have such problems will be tested, at least, six times in the first twelve months of resuming such duties and may be tested for alcohol and/or drugs on an unannounced basis for a period of five (5) years.

Operators who are found in violation of the prohibited conduct in Section VI of this policy, and whose employment was not terminated, also shall be tested for alcohol and/or illegal drugs before being allowed to return to performing his/her duties. Operators are subject to the same requirements as drivers in return-to-duty and follow-up testing.

IX. POLICY FOR TESTING

Prior to testing, the City will afford applicants and employees subject to testing the opportunity to list all prescription and non-prescription drugs that they have used in the last 30 days and to explain the circumstances surrounding their use of such drugs.

Prior to testing, applicants and employees subject to testing must sign an approved form consenting to the testing and consenting to the release of the test results to appropriate management personnel of the City.

The City utilizes a Medical Review Officer ("MRO") to review drug test results. Prior to taking any action on a positive test result, the City will give applicants and employees who test positive for alcohol or drugs the opportunity to explain confirmed positive test results to the City's MRO.

X. TESTING PROCEDURES FOR CITY EMPLOYEES AND APPLICANTS

A. Testing

1. Alcohol Testing

Alcohol testing shall be performed by testing breath of the employee, and shall be tested using an Evidential Breath Testing device ("EBT"). The EBT is a scientific instrument that determines the concentration of alcohol expressed as "percent by weight." It does this by analyzing a specific volume of expired breath. The weight of alcohol in the breath sample is determined and the quantity of the alcohol converted to its equivalent value in blood.

2. Drug Testing

For drug testing, a City employee shall submit a urine sample at the designated collection site. Two tests may be performed by the laboratory. The initial drug

test shall be an immunoassay test. This is a screening test to determine usage for the classes of drugs to be tested for under this policy. The second test is a confirmatory test.

B. Testing Facility

1. Alcohol Testing

Alcohol testing and analysis shall be performed at Freeman Neosho Occumed by Breath Alcohol Technicians who are certified under the rigid standards of the Department of Transportation ("DOT") drug and alcohol testing guidelines except in those situations where this is impracticable. The equipment used in the alcohol testing also meets such DOT drug and alcohol testing guidelines. The testing is performed in a site that affords privacy to employees being tested whenever possible. In those instances where it is impracticable to test at Freeman Neosho Occumed, such as post-accident testing, the testing site shall be that site designated by on-site police or public safety officials, or any site that is most practicable under the circumstances and testing may be performed by on-site police or public safety officials.

2. Drug Testing

For drug testing, the designated collection site shall be Freeman Neosho Occumed by an appropriate collection technician who shall ensure that the collections is made in compliance with applicable regulatory guidelines. The laboratory testing for drugs shall be performed by Freeman Neosho Occumed which is approved by the Health and Human Services Department of the Federal Government to perform such testing.

For reasonable suspicion drug testing and drug testing during a time period when Freeman Neosho Occumed is closed, the collection site shall be the most reasonable site available under the circumstances. The collection shall be made by a collection technician, who shall ensure that the collection is made in compliance with applicable regulatory guidelines. All other conditions for submitting a urine sample, as detailed below, shall be followed as much as is practicable.

For post-accident drug testing, the collection site shall be that site designated by on-site police or public safety officials, or any site that is most practicable under the circumstances.

C. Collection and Chain of Custody

1. Alcohol Testing

An employee required to undergo an alcohol test shall be required to submit a breath sample at the designated collection site. Prior to taking the breath test, an employee will be required to produce a picture I.D. The testing is performed in a site that affords privacy to the employee being tested whenever possible.

An alcohol test may have two separate parts. The first is the initial test. If the initial test result is .02 BAC or greater, a confirmatory test will be performed. The first part of the testing is to make sure the EBT is operating properly. In the employee's presence the technician runs an "air blank" test to make sure the EBT is working correctly and the reading is zero. Next, a sealed mouthpiece is opened and placed into the EBT. In order to get a sufficient quantity of deep lung air, the employee is requested to blow into the mouthpiece for at least 6 seconds, or until the EBT indicates that an adequate amount of breath has been obtained. The EBT will immediately read the results of the test.

2. Drug Testing

For drug testing, urine samples are collected in restrooms at the collection site in specially provided containers. Prior to giving the urine sample, an applicant or employee will be required to produce a picture I.D. Applicants and employees are not allowed to carry any personal belongings into the restroom, and no one else is permitted in the restroom during the giving of the urine sample, except for those limited circumstances in which a monitor is permitted to observe the giving of the sample, as detailed below. The applicant or employee must wash and dry their hands before giving the urine sample. Wherever possible, the restroom where the sample is given shall have the water turned off and a blue stain in the commode to prevent false specimens.

Where the collecting technician determines, based on the temperature of the specimen or other alteration of the specimen, or through personal observation, that the applicant or employee is attempting to give a false specimen, the technician shall thereafter invalidate the sample and require a new sample be given. A monitor of the same sex as the applicant or employee giving the sample shall physically observe the applicant or employee as he/she gives the new specimen. The collecting technician shall also document the suspected giving of a false specimen.

After giving the specimen to the technician, the applicant or employee shall watch the technician seal the tamper proof bag containing the urine specimen and prepare the appropriate paperwork on the sample. The applicant or employee will be asked to sign the chain of custody form. The sample is then tested in the laboratory at Freeman Neosho Occumed. At the laboratory the sample's I.D. is verified and it is verified that there has been no tampering of the tamper proof bag. The test result is then reported back to the clinic using an I.D. number.

D. Positive Test Results

The City utilizes a Medical Review Officer ("MRO") to review all positive drug and alcohol test results.

1. Alcohol Testing

When the initial alcohol test is positive, a confirmation test is necessary. Before the confirmation test, a 15 minute waiting period will be observed. The purpose of the 15 minute waiting period is to ensure that the presence of mouth alcohol from recent use of food, tobacco, or hygiene products, does not artificially raise the test result. As the confirmation test is done on the same EBT as the first test, the testing procedures will be the same.

When the alcohol confirmation result is different from the initial test, the lower of the two results will be used to determine the consequences.

2. Drug Testing

An applicant or employee whose drug test yields a positive result shall be given a confirmatory test using gas chromatography/mass spectrometry techniques. This test typically is performed in an entirely different manner from the initial one. If the second test confirms the positive test result, the applicant or employee shall be notified of the results in writing by the MRO. The applicant or employee may then discuss the positive test result with the MRO and explain confirmed positive test results.

A split specimen collection will be done. That is, the urine is divided into two specimen bottles. If the test result of the primary specimen is positive, the City employee or applicant for the position may request the MRO to send the second (or split) specimen to a different certified lab for testing. The testing of the split specimen will be

for the presence of drugs with no cut-off levels and must be made by the employee within 3 days of being notified of a positive test result. An applicant or employee whose second test confirms the original positive test results may, within 3 days from notification of the confirmation test result, at the employee's or applicant's expense, have a third test conducted on the same sample at a laboratory selected by the City of Neosho.

E. Use of Test Results

All test results are confidential and will be revealed to the City Manager and other appropriate City management personnel on a "need-to-know" basis only. Any tested employee may receive a copy of his/her test results by making a written request. Positive test results shall not be used for criminal prosecution, except where required by law or court order.

XI. CONSEQUENCES OF A POSITIVE DRUG OR ALCOHOL TEST

Violation of the City's Alcohol and Drug Abuse Policy may result in severe disciplinary action for a first offense, including discharge at the City's discretion. Applicants for city employment who test positive for illegal drugs shall not be hired.

A. Special Provisions for Alcohol Test Results of Drivers and Operators

1. Drivers Who Test .04 BAC and Above

Federal regulations provide that a driver who tests .04 BAC or above on the alcohol test shall be removed immediately from performing safety sensitive functions and suspended pending further investigation into the circumstances surrounding the test results. While federal regulations are not as stringent, it is the City's policy that a test result of .04 BAC or greater constitutes a violation of City policy and the driver shall be subject to discipline up to and including discharge. If not discharged, the driver shall be subject to periodic follow-up testing, as required by federal regulations.

2. Alcohol Test of between .02 and .04 BAC

Federal regulations provide that a driver found to have a BAC of .02 or greater but less than .04 shall be removed immediately from performing safety sensitive functions and shall not perform safety sensitive functions until the start of the driver's next scheduled duty period, but not less than 24 hours following the test. While federal

regulations are not as stringent, it is the City's policy that a test result between .02 and .04 constitutes a violation of City policy and may result in discipline of the driver up to and including discharge. If not discharged, the driver shall be subject to periodic follow-up testing, as required by federal regulations.

Operators who are found to have a BAC between .02 and .04, or .04 and above, are treated the same as drivers as described in the above subsections. It is the City's policy that test results at these BAC levels constitute a violation of City policy and may result in discipline of the operator up to and including discharge. If not discharged, the operator shall be subject to periodic follow-up testing, as required by this Policy.

3. Assessment of Drivers By A Substance Abuse Professional

Pursuant to federal regulations, a driver who tests positive for the presence of illegal drugs or alcohol above the minimum thresholds set forth in this policy shall be evaluated by a Substance Abuse Professional ("SAP"). The SAP will evaluate the driver who tests positive to determine what assistance, if any, he/she needs in resolving problems associated with illegal drug use or alcohol misuse. This may be done through the City's health insurance plan.

Assessment by a SAP will not prevent disciplinary action, up to and including discharge, for violation of the City's Alcohol and Drug Abuse Policy. Drivers who undergo this evaluation and who continue to work must meet all established standards of conduct and job performance as well as comply with any rehabilitation program designed by the SAP.

XII. REHABILITATION ASSISTANCE

City employees seeking and undergoing treatment for alcohol or drug abuse under the City's health insurance plan, and who have not been terminated, shall agree to undertake and successfully complete the rehabilitation program established for the employee by the health care provider under the insurance plan. The employee will provide a release for all medical records to the City for use and review by the City to monitor and assess compliance with this rehabilitation program. The employee must agree to refrain from any violation of this Policy or the rehabilitation program. Further, the employee must agree that any future controlled substance and/or alcohol use violating the provisions of this Policy or the rehabilitation program shall be deemed to be a resignation by the

employee without recourse. Finally, the employee must submit to all Return-to-Duty and Follow-up testing that may be required under this Policy.

XIII. OPPORTUNITY TO EXPLAIN CONFIRMED POSITIVE TEST RESULTS

Prior to taking any action as the result of a positive drug or alcohol test, the City shall provide all City employees with the opportunity to explain confirmed positive test results.

XIV. REFUSAL TO SUBMIT TO A TEST

It is the City's policy that refusal to submit to an alcohol or drug test when required constitutes a violation of this Policy and may subject the employee to discipline up to and including discharge. Applicants who refuse to submit to a pre-employment test shall not be hired.

A. Special Provisions for Drivers and Operators

All drivers, operators and applicants for such positions are required to submit to alcohol and drug tests in the circumstances described in Section VI of the policy.

Federal regulations provide that a driver shall not refuse to submit to a post-accident test, reasonable suspicion test, random test, or follow-up test. Drivers who refuse to submit to a required test shall be suspended pending further investigation.

In alcohol testing, the refusal to take the breath test immediately upon being requested to do so constitutes a refusal to take the test. Not providing an adequate amount of breath may, under certain conditions, be regarded as a refusal to take a test. In drug testing, failure to provide sufficient urine may constitute a refusal.

With regard to refusal to submit to a test, operators are treated in the same manner as drivers.

XV. INSPECTIONS

All property belonging to the City is subject to inspection at any time without notice, as there is no expectation of privacy. This property includes, but is not limited to, City vehicles, desks, containers, files, and storage lockers.

XVI. ARREST OR CONVICTION UNDER A CRIMINAL DRUG STATUTE

Employees must notify their Department Head or the City Manager within 5 days of any arrest or conviction under any criminal drug statute.

Should such employee be working on a federal program or receive wages from federal grant monies, the City is required to notify the granting agency of drug related convictions occurring in the workplace within 10 days. Within 30 days of receiving notice from the employee, the City will take appropriate disciplinary action, up to and including discharge, or require participation in a rehabilitation program at its sole discretion.

XVII. CONTACT PERSON

As part of our continuing policy to ensure fair and equal treatment of our drivers, the City recognizes that there may be questions or concerns involving the City of Neosho Alcohol And Drug Abuse Policy. To assist in understanding these requirements, the City has designated the City Manager to answer questions regarding alcohol and drug testing. The City encourages its employees to contact the City Manager with any questions concerning this Policy.

XVIII. GOOD FAITH COMPLIANCE

The City adopts this policy for the purposes stated herein and as part of its good faith effort to comply with the Department of Transportation's regulations. The City will continue to follow these regulations as interpreted, modified, or amended.

XIX. AMENDMENTS

This policy is subject to amendment by the City of Neosho from time to time. Amendments that are made shall be provided to employees upon adoption and shall become effective as provided by the City.

CITY OF NEOSHO

Acknowledgment of Receipt and Authorization for Alcohol and Drug Testing

I hereby acknowledge that I have received a copy of the City of Neosho Alcohol and Drug Abuse Policy. I agree to read the City's Alcohol and Drug Abuse Policy, and keep the policy for future reference. I agree to abide by the policy and I give the City permission to test me, and I agree to submit to such tests, for the purpose of detecting the presence of alcohol or drugs under the circumstances set forth in the Alcohol and Drug Abuse Policy. I also give my permission to have the appropriate tests run on any specimen or sample I submit as part of my compliance with this policy.

I hereby consent to allow the City to search City property in my possession or under my control, including but not limited to my desk, locker, and/or City vehicle, under the circumstances set forth in the Alcohol and Drug Abuse Policy. The consent to search given in this authorization shall in no way be construed to limit the right of the City to perform administrative workplace searches for other purposes permitted under the laws and cases of the United States and of the State of Missouri.

I understand that I will be subject to, and agree to abide by, the City's present and/or future Policy on Alcohol and Drug Abuse, and the disciplinary guidelines for violating the Policy.

I authorize the administrator of such tests to release the results of the tests to the City Manager and other appropriate management personnel.

I have read this authorization in full, and understand and agree to its contents.

Name (print)

Signature

Date

CITY OF NEOSHO

City Employee Possessing Commercial Driver's License: Authorization to Release Alcohol and Drug Testing Information

I hereby grant permission to all previous employer(s) during the two years prior to my application with the City to release to the City information concerning controlled substance and/or alcohol testing that I may have undergone under the U.S. Department of Transportation's Federal Motor Carrier Safety Regulations. This authorization includes my permission to release to the City of Neosho all information concerning alcohol tests with a result of 0.04 alcohol content or greater, verified positive controlled substance test results, and refusals to be tested as well as subsequent compliance with any related rehabilitation assistance plan or further required controlled substance or alcohol testing.

The release of this information may take the form of personal interviews, telephone interviews, letters or any other method that ensures the confidentiality of this information.

I have read this authorization in full, and understand and agree to its contents.

Name (print)

Signature

Date

CITY OF NEOSHO

Acknowledgment of Receipt and Authorization for Alcohol and Drug Testing of Minor With Parental Consent

I hereby acknowledge that I have received a copy of the City of Neosho Alcohol and Drug Abuse Policy. I agree to read the City's Alcohol and Drug Abuse Policy, and keep the policy for future reference. I agree to abide by the policy and I give the City permission to test me, and I agree to submit to such tests, for the purpose of detecting the presence of alcohol or drugs under the circumstances set forth in the Alcohol and Drug Abuse Policy. I also give my permission to have the appropriate tests run on any specimen or sample I submit as part of my compliance with this policy.

I hereby consent to allow the City to search City property in my possession or under my control, including but not limited to my desk, locker, and/or City vehicle, under the circumstances set forth in the Alcohol and Drug Abuse Policy. The consent to search given in this authorization shall in no way be construed to limit the right of the City to perform administrative workplace searches for other purposes permitted under the laws and cases of the United States and of the State of Missouri.

I understand that I will be subject to, and agree to abide by, the City's present and/or future Policy on Alcohol and Drug Abuse, and the disciplinary guidelines for violating the Policy.

I authorize the administrator of such tests to release the results of the tests to the City Manager and other appropriate management personnel.

I have read this authorization in full, and understand and agree to its contents.

Name (print) _____

Signature _____

Date _____

As the parent or guardian of the above minor, I acknowledge that I have read the City of Neosho Alcohol and Drug Abuse Policy and hereby consent to the administration of alcohol and/or drug testing by the City to the above minor pursuant to the provisions of this Policy.

Parent/Guardian (print) _____

Signature _____

Date _____