

**CITY OF UNION CITY
COUNTY OF HUDSON, STATE OF NEW JERSEY**

Ordinance 2018 - 18

**ORDINANCE AMENDING CHAPTER IV, ADMINISTRATION OF GOVERNMENT
ARTICLE XIII SECTION 4-75 POLICE DEPARTMENT DRUG TESTING POLICY**

WHEREAS, pursuant to N.J.S.A. 40:48-2, a municipality may make, amend, repeal and enforce ordinances not contrary to the laws of this State or of the United States, as it may deem necessary and proper for order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants; and

WHEREAS, the City of Union City (the “City”) is a municipality as defined by Title 40 of the New Jersey Statutes; and

WHEREAS, Section 4-75 of the Municipal Code of the City entitled “Drug testing policy,” as amended, establishes, creates and provides for a specific Drug Testing Policy of the Police Department of the City; and

WHEREAS, the City finds that it is in the best interest of the health, safety, and welfare of its residents to amend Section 4-75 to comply with the State of New Jersey Office of the Attorney General’s recent Directive regarding Statewide Mandatory Random Drug Testing; and

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of the City of Union City, County of Hudson, State of New Jersey that the Code of the City of Union City is hereby amended and revised as follows:

SECTION ONE:

Section 4-75 of the Municipal Code of the City, Drug testing policy, is hereby amended to read as attached hereto as **Exhibit 1**.

SECTION TWO:

Severability. If any term or provision of this Ordinance is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction, in whole or in part, such determination shall not affect the validity of the remaining terms and provisions of this Ordinance.

SECTION THREE:

Repealer. To the extent that any provision of the Code of the City of Union City is found to conflict with this Ordinance, in whole or in part, this Ordinance shall control.

SECTION FOUR:

In order to avoid accidental repeal of existing provisions, the City Clerk and the Corporation Counsel are hereby authorized to change any chapter numbers, article numbers and/or section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those numbers and the existing Code.

SECTION FIVE:

This Ordinance shall take effect upon passage and publication as required by law.

Commissioners	Yea	Nay	Abstain/Present	Absent
Lucio P. Fernandez				
Wendy A. Grullon				
Celin J. Valdivia				
Maryury A. Martinetti				
Mayor Brian P. Stack				

I HEREBY CERTIFY this to be a true and correct Ordinance of the City of Union City Board of Commissioners, introduced on May 9, 2018 and was further considered and adopted after a Public Hearing held on May 22, 2018 at the Bella Vista Apartments, 522-22nd Street, Union City, New Jersey.

INTRODUCED: May 9, 2018

ADOPTED: May 22, 2018

Erin Knoedler
City Clerk

Date

SUMMARY OF ORDINANCE

The purpose of this Ordinance is to revise the Municipal Code of the City to comply with the State of New Jersey Office of the Attorney General's recent Directive regarding Statewide Mandatory Random Drug Testing.

EXHIBIT 1

10:7 SUBMISSION OF SPECIMENS FOR ANALYSIS

10:7.1 1. The State Toxicology Laboratory is the only facility approved for the analysis of law enforcement drug tests conducted under the Law Enforcement Drug Testing Policy. Law enforcement agencies are not permitted to use any other facility or laboratory for the purpose of analyzing urine specimens for illegal drug use by law enforcement officers.

10:7.2 2. Urine specimens should be submitted to the State Toxicology Laboratory as soon as possible after their collection. In the event a specimen cannot be submitted to the laboratory within one (1) working day, then it shall be stored in a controlled access refrigerated storage area within the Internal Affairs Unit until submission to the State Toxicology Laboratory can be made on the next available working day.

10:7.3 3. The Internal Affairs Unit shall be responsible for the transportation of specimens to the State Toxicology Laboratory. Should other personnel be assigned to the task of transporting specimens for analysis, the proper chain of custody will be documented indicating the individual who is transporting the specimen in addition to indicating the individual who turned over possession of the specimens from the Property Room, and any other pertinent information which would establish and continue the chain of custody.

10:7.3 4. All specimens must be accompanied by the Law Enforcement Drug Testing Custody and Submission Form which can be obtained from the lab and the sealed envelope containing the Medication Information Form. The State Toxicology Laboratory will inspect all documentation to ensure that it has been properly completed. Failure to include the appropriate documentation with each submission will cause the Laboratory to delay conducting an analysis of the specimen or specimens until the missing documentation is submitted.

10:7.3 5. In addition to ensuring that the appropriate documentation has been completed and submitted for each specimen, the State Toxicology Laboratory shall inspect each specimen for damage and evidence of tampering.

A. The Laboratory may reject any specimen it has reason to believe has been tampered with or is damaged; and

B. Notify the submitting agency in writing with the reason for rejection clearly stated.

10:8 ANALYSIS OF SPECIMENS

10:8.1 1. The analysis of the first specimen shall be done in accordance with currently accepted procedures adopted by the State Toxicology Laboratory. These procedures shall include but not

be limited to security of the test specimens, chain of custody, initial screening and confirmation testing, parent drug and metabolite cut-off levels and the issuance of test reports. In addition to the controlled substances listed below, the Chief of Police may request that specimens be analyzed for the presence of steroids.

10:8.2 2. The Laboratory's drug testing procedures will screen specimens for the following controlled substances:

A. Amphetamines;

B. Barbiturates;

C. Benzodiazepine;

D. Cocaine;

E. Marijuana;

F. Methadone;

G. Opiates;

H. Oxycodone/Oxymorphone;

I. Phencyclidine.

10:8.2 3. The State Toxicology Laboratory utilizes a two stage procedure to analyze specimens.

A. In the first stage, all specimens will undergo an initial screening. The initial screening determines whether one or more of the nine substances listed and/or their metabolites are present at or above a designated cutoff. All presumptive positive specimens will undergo a second and more specific type of testing.

B. The second type of testing will employ mass spectrometry detection for the definitive identification and quantitation of drugs and/or metabolites presumptively identified by the initial screen.

10:8.2 4. When a specimen tests positive at both the initial stage and the second stage, a medical review officer assigned to the State Toxicology Laboratory will review the test results together with the medication information form submitted for the specimen. The medical review officer will seek to determine whether any of the substances listed on the form would explain the positive test result. The medical review officer may direct the agency that collected the sample to obtain further information from the individual being tested concerning the medications listed on the medical information form. The medical review officer will then issue a report indicating whether or not the sample tested positive due to a listed medication on the medication information form.

10:8.2 5. Applicants for law enforcement employment are not required to submit a Drug Testing Medication Information form with their specimen. Therefore, if an applicant tests positive, the law enforcement agency, following notification from the State Toxicology Laboratory, must have the candidate complete the Drug Testing Medication Information form (Attachment D). Once the form has been completed, the agency is responsible for transmitting the form to the Laboratory. A review of the form will be conducted by the medical review officer as outlined above.

10:8.2 6. In addition to the testing outlined above, specimens submitted to the State Toxicology Laboratory may be tested for additional substances at the request of the law enforcement agency submitting the specimen. The State Toxicology Laboratory has the ability through its own facilities, as well as facilities employed as reference laboratories, to arrange drug testing for steroid abuse, as well as other currently abused chemicals.

10:9 DRUG TEST RESULTS

10:9.1 1. The State Toxicology Laboratory will provide written test results for every specimen submitted for analysis. All efforts will be made to deliver these reports within 15 working days of the submission. Reports will be addressed to the contact person listed on the specimen submission record. Positive test results will be sent to the contact person by certified mail.

10:9.2 2. In some cases, the State Toxicology Laboratory will report that a specimen tested positive for a particular substance and that the information on the medication information form explains the test result. For example, the Laboratory may report that a specimen tested positive for barbiturates and a prescription for that barbiturate was listed on the form by the officer. At this point, it is the responsibility of the submitting agency to determine whether the officer had a valid prescription for that drug. Officers who do not have a valid prescription are subject to disciplinary action including, termination by the agency.

10:9.3 3. The Union City Police Department shall notify the **applicant, trainee or sworn law enforcement officer** of the results of a positive test as soon as practicable after receipt of the report from the State Toxicology Laboratory. Upon request, the individual may receive a copy of the laboratory report.

10:9.4 4. Under no circumstances will the State Toxicology Laboratory provide law enforcement agencies with verbal reports of drug test results. In addition, no individual or agency may ask the Laboratory to conduct a second analysis of a specimen that has already been analyzed.

10:10 CONSEQUENCES OF A POSITIVE TEST RESULT

10:10.1 1. When an **applicant** tests positive for illegal drug use:

A. The applicant shall be immediately removed from consideration for employment by this agency;

B. The applicant shall be reported to the Central Drug Registry by the agency to which the individual applied; and

C. The applicant shall be precluded from consideration for future law enforcement employment by any law enforcement agency in New Jersey for a period of two (2) years.

D. If the applicant is currently employed by another agency as a sworn law enforcement officer, the officers' current employer shall be notified of the positive test result. The officers' current employer is required to dismiss the officer from employment and also report his name to the Central Drug Registry maintained by the Division of State Police.

10:10.2 2. When a **trainee** tests positive for illegal drug use, subject to rules adopted by the Police Training Commission:

A. The trainee shall be immediately dismissed from basic training and suspended from employment by his or her appointing authority;

B. Upon final disciplinary action, the trainee shall be terminated from employment as a law enforcement officer, upon final disciplinary action by the appointing authority;

C. The trainee shall be reported to the Central Drug Registry maintained by the Division of State Police; and

D. The trainee shall be permanently barred from future law enforcement employment in New Jersey.

10:10.3 3. When a **sworn law enforcement officer** tests positive for illegal drug use:

A. The officer shall immediately be suspended from duty (without pay);

B. The officer shall be administratively charged and, upon final disciplinary action, the officer shall be terminated from employment as a law enforcement officer, upon final disciplinary action;

C. The officer shall be reported to the Central Drug Registry maintained by the Division of State Police; and

D. The officer shall be permanently barred from future law enforcement employment in New Jersey.

10:11 CONSEQUENCES OF REFUSAL TO SUBMIT TO DRUG TEST

10:11.1 1. **Applicants** who refuse to submit to a drug test during the pre-employment process shall be immediately removed from consideration for law enforcement employment and barred from consideration for future law enforcement employment for a period of two (2) years. In

addition, the appointing authority shall forward the applicants' name to the Central Drug Registry and note that the individual refused to submit to a drug test.

10:11.2 2. Trainees who refuse to submit to a drug test during basic training shall be immediately suspended from employment. Upon a finding that the trainee did in fact refuse to submit a sample, the trainee shall be terminated from law enforcement employment and permanently barred from future law enforcement employment in New Jersey. In addition, the appointing authority shall forward the trainee's name to the Central Drug Registry and note that the individual refused to submit to a drug test.

10:11.3 3. Sworn law enforcement officers who refuse to submit to a drug test ordered in response to reasonable suspicion or random selection shall be immediately suspended from employment. Upon a finding that the officer did in fact refuse to submit a sample, the officer shall be terminated from law enforcement employment and permanently barred from future law enforcement employment in New Jersey. In addition, the appointing authority shall forward the officers' name to the Central Drug Registry and note that the individual refused to submit to a drug test. Please note that if there is no valid reason why an officer cannot produce a specimen, the officer's actions will be treated as a refusal. In addition, a sworn law enforcement officer who resigns or retires after receiving a lawful order to submit a urine specimen for drug testing and who does not provide the specimen shall be deemed to have refused to submit to the drug test.

10:11.4 4. A sworn law enforcement officer who tests positive for illegal drug use or refuses to submit to a drug test, and who resigns or retires in lieu of disciplinary action or prior to the completion of the final disciplinary action, shall be reported to the Central Drug Registry and shall be permanently barred from future law enforcement employment in New Jersey.

10:11.5 5. An officer who resigns or retires after receiving a lawful order to submit a urine specimen for drug testing and who does not provide the specimen shall be deemed to have refused to submit to the drug test.

