

City of Hickory
Drug and Alcohol Policy and Procedures

Date: April 15, 2014
September 15, 2015
Rev. 2

I. POLICY

The City of Hickory (City) is committed to providing coworkers with a safe, drug-free, and healthy work environment. In meeting this goal, it is our policy to (1) assure that coworkers are not impaired in their ability to perform their duties in a safe manner; (2) create a work environment free from the adverse effects of drug abuse and alcohol misuse; (3) prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and (4) encourage coworkers to seek professional assistance anytime personal problems, including alcohol or drug dependency, adversely affect their performance. It is the City's policy to comply with all applicable regulations regarding drugs and/or alcohol in the workplace. These regulations include, but are not limited to, the Drug-Free Workplace Act and the U.S. Department of Transportation (US DOT) regulations published in 49 CFR Parts 40, 382, 391, 392, 395, 653, 654 and 655 as amended. (www.dot.gov)

Supervisory personnel are expected to use and apply this policy in a fair and consistent manner. Anyone found to knowingly disregard the policy or deliberately misuse the policy shall be in violation of this policy.

Violation of any of the provisions of this section shall result in disciplinary action up to and including dismissal, as provided for in the Personnel Ordinance.

If an accident or other incident occurs after 5:00 p.m. or on a weekend, notify the Risk Manager at 8:30 a.m. on the next business day. Business hours, for the purposes of this policy, are defined as Monday through Friday, 7:00 a.m. until 5:00 p.m. If an immediate test is needed, take the coworker to a hospital emergency room and ask them to perform the appropriate test. Ask the hospital for a release of information form stating that results of the tests will be sent to Risk Manager and have the coworker sign it.

All post-accident tests that are required for Federal Motor Carrier Safety Administration (FMCSA) coworkers after 5 p.m. or on weekends, will be done at Catawba Valley Medical Center (emergency room entrance). Under FMCSA authority, testing must be done as soon as possible, but not to exceed 8 hours for alcohol testing and 32 hours for drug testing.

II. APPLICABILITY

This policy applies to all coworkers and applicants as defined elsewhere in the policy. Provisions consistent with Federal Motor Carrier Safety Administration (FMCSA) regulations cover coworkers who are required by law to have a Commercial Driver's License (CDL) to perform their duties for the City. FMCSA regulations, when applicable, supersede the City's authority. Testing of coworkers not covered by FMCSA regulations and additional testing not required by FMCSA regulations are done under the authority of the City.

III. DEFINITIONS

- A. Approved laboratory - laboratory approved and certified by the North Carolina Department of Health and Human Services (NCDHHS), Division of Human Resources or the U.S. Department of Health and Human Services (DHSS), the College of American Pathologists (CAP), the American Association for Clinical Chemistry (AACC), or the equivalent to conduct drug testing. Only laboratories certified by DHSS will be used for tests required by FMCSA (Federal Motor Carrier Safety Administration).
- B. Controlled substance - any substance regulated by state or federal law which has been determined to have a potential for abuse and which may lead to physical or psychological dependence. These include all forms of narcotics, depressants, stimulants, hallucinogens, marijuana, and all substances listed in North Carolina General Statutes 90-89 through 90-94. See Schedules I – VI, for listings and definitions. (www.ncga.state.nc.us)
- C. Coworker - any person employed in a full-time, part-time, or seasonal position with the City of Hickory.
- D. Employee Assistance Program - program of counseling services provided by the City. Services include assessment, evaluation, referral for treatment, and follow-up procedures.
- E. FMCSA – Federal Motor Carrier Safety Administration
- F. Job Applicant - any person who applies to become a coworker with the City.
- G. Medical Review Officer (MRO) - medical doctor (MD) or doctor of osteopathy (DO) who has knowledge of substance abuse disorders and who, among other duties, receives, reviews, and evaluates confirmed positive drug tests.
- H. Program Manager - Person having overall responsibility for the City's Drug and Alcohol Policy and Procedure. The Human Resources Manager is the City's program manager; the Risk Manager is the primary contact person for day-to-day coordination of testing, including receiving test results and coordinating random testing.
- I. Reasonable suspicion means an expressible belief based on specific objective facts and rational inferences drawn from those facts that a coworker has consumed or is under the influence of alcohol, drugs, or other impairing substance while at work. Circumstances which constitute a basis for determining reasonable suspicion may include but are not limited to:
 - 1. Direct observation of drug use or alcohol use and/or the physical symptoms of being under the influence of a drug or alcohol;
 - 2. Specific, contemporaneous (happening at the same time), and articulable observations concerning appearance, behavior, speech, or body odors;
 - 3. Direct or observable evidence that a coworker is involved in the unauthorized possession, sale, solicitation, or transfer of drugs or alcohol while working or while on the City's premises or operating a City vehicle, machinery, or equipment.
- J. Safety-sensitive duties - Involve such a great risk of injury to others that even a momentary lapse of attention can have disastrous consequences. For coworkers required to have a CDL, the City will follow FMCSA (Federal Motor Carrier Safety Administration) regulations. A list of safety-sensitive duties will be maintained in Human Resources. Safety sensitive positions are determined by the

tasks listed in the job description as well as a joint review by Human Resources, Risk Management, and the department head.

- K. Substance Abuse Professional (SAP) - licensed MD or DO or a licensed or certified psychologist, social worker, employee assistance professional, or a National Association of Alcoholism and Drug Abuse Counselors (NAADAC) certified addiction counselor who has knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance related disorders.

IV. PROHIBITED SUBSTANCES

- A. Illegally used controlled substances or drugs or other impairing substances - Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, use of illegally obtained prescription drugs, and improper use of other impairing substances that may affect performance.
- B. Legal drugs - While the appropriate use of legally prescribed drugs and non-prescription medication is not prohibited, it is the coworker's responsibility to ensure that such use will not adversely affect his/her ability to perform job duties such as driving and operating heavy equipment safely. The use of prescription and/or non-prescription medication which carries a warning label indicating that mental functioning, motor skills, or judgment may be adversely affected must be reported to supervisory personnel before performing work duties. In instances where the need for additional information has been identified by the department in consultation with the City Nurse and Risk Manager, the coworker may be requested to furnish additional information from his/her physician as to his/her ability to perform the essential functions of the job.
- C. Alcohol - any beverage, mixture, or preparation which contains alcohol.

V. PROHIBITED CONDUCT

- A. As required by the Drug-Free Workplace Act, all coworkers are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances while on City business. Coworkers who are charged with or convicted of a drug or alcohol related offense must notify their Department Head immediately on the first business day following such a charge or conviction. The Department Head must notify the City Manager immediately.
- B. All coworkers are prohibited from being intoxicated, impaired, or under the influence of a prohibited substance while conducting City business or while acting as a representative of the City.
- C. The consumption of alcohol while on duty is prohibited.
- D. FMCSA regulations prohibit the use of alcohol within four hours of reporting for duty and for eight hours following a testable accident (or until the test has been performed). FMCSA alcohol testing must be performed within 8 hours of the event. These prohibitions will apply to all City coworkers under the City's own authority.
- E. All coworkers are expected to comply with the testing requirements outlined in this policy as a condition of employment. Coworkers will be asked to sign an appropriate consent form before a test is performed. Refusal to sign and/or submit to a required test will be treated as a positive test result. Refusal to submit includes:
 - failure to appear at the designated test site in a timely manner;
 - refusal to provide a specimen;

- intentionally obstructing the collection process;
- tampering with, adulterating, or substituting a specimen; failure to provide adequate urine specimen without medical explanation within three (3) hours of giving the first insufficient amount; Under the City's own authority, an employee with a non-DOT drug test may request a blood test if it is determined that he/she cannot provide a sufficient specimen.
- failure to provide adequate breath specimen after two (2) attempts without medical explanation (a third attempt may be allowed if there is reason to believe it will be successful);
- failure to be available for testing after an accident;
- leaving the scene of an accident prior to testing without a reasonable explanation;
- failure to sign DOT required testing forms;
- leaving the collection site prior to test completion;
- failure to permit an observed or monitored collection when required;
- failure to take a second test when required;
- failure to undergo a medical examination when required; (FMCSA)
- failure to cooperate with any part of the testing process.

VI. TYPES OF TESTING

- A. Post-offer Testing- All applicants (as defined in section 3F) will be required to undergo a drug test upon an offer of employment. The final appointment to the position will take place after successful completion of the post-offer drug screening. Applicants for positions that require a CDL will be tested under FMCSA (Federal Motor Carrier Safety Administration) authority.
- B. Reasonable Suspicion Testing (under the City's own authority, see Section #2, page 1)
 1. A coworker will be required to undergo drug and/or alcohol testing when there are reasons to believe that the coworker is under the influence of alcohol, drugs, or other substance while at work.
 2. Testing will be done under FMCSA (Federal Motor Carrier Safety Administration) authority only when a trained supervisor makes specific, contemporaneous, and articulable observation concerning appearance, speech, behavior, or body odors of a coworker. The supervisor must be able to (1) substantiate specific behaviors that may indicate drug use or alcohol misuse; (2) identify job performance problems that may indicate prohibited drug use or alcohol misuse; and (3) actually observe physical indications that prohibited drug use or alcohol misuse may be occurring. Testing for alcohol can be done only when observations are made during, just preceding, or just after the performance of safety-sensitive duties.

3. Procedure:

- a. Complete the "Request for Drug and/or Alcohol Test" form (copy attached). Use the "comments" section for any additional information, such as special circumstances, witnesses, etc.
- b. The form must be signed by the department head or his/her designee.
- c. Confer with the Risk Manager (323-7480) to arrange for the test(s).
- d. The supervisor or his/her designee shall explain the City's drug and alcohol policy to the coworker, and accompany him/her to the test site.
- e. Notify the coworker that he/she will be tested and the reason(s) for the test(s).
- f. Have the coworker sign the appropriate consent form (either post-accident or reasonable suspicion).
- g. Send the completed forms to the Risk Management division. If the City nurse is conducting the test, bring the forms with you when you bring the coworker for the test.

C. Post-Accident Testing

1. Under the City's own authority, a coworker will be asked to submit to a drug and/or alcohol test after a fatality, or any at fault vehicle or equipment accident which involves a fatality, significant property damage, or an injury requiring medical attention away from the scene. Testing will be done as soon as possible, but not to exceed 8 hours for alcohol and 32 hours for drugs.
2. The City's Risk Manager and/or the Human Resources Manager will confer and make the determination on whether a test will be performed when significant property damage is involved. On the rare occasion that neither of the above is available, the department head may make the decision to test when significant property damage is involved.
3. For coworkers subject to FMCSA regulations, testing will be done under FMCSA authority if there is a fatality, if the driver receives a citation, or for moving violations arising in an accident that requires a vehicle to be towed, or if an injury requiring medical attention away from the scene occurs. Testing will be done as soon as possible, but not to exceed 8 hours for alcohol and 32 hours for drugs. Testing will be done at Catawba Valley Medical Center (CVMC). Although testing is done under FMCSA (Federal Motor Carrier Safety Administration) authority, the coworker is also subject to city policy.
4. The Risk Manager and/or Human Resources Manager, in consultation with the department head, will make the determination whether the coworker may continue to drive a City vehicle until a negative test result is received by Risk Manager.
5. If an accident or other incident occurs after 5:00 p.m. or on a weekend, notify the Risk Manager at 8:30 a.m. on the next business day. Business hours, for the purposes of this policy, are defined as Monday through Friday, 7:00 a.m. until 5:00 p.m. If an immediate test is needed, take the coworker to a hospital emergency room and ask them to perform the appropriate test. Ask the hospital for a release of information form stating that results of the tests will be sent to the Risk Manager and have the coworker sign it.

6. For post-accident tests that are required for Federal Motor Carrier Safety Administration (FMCSA) coworkers, testing will be done at Catawba Valley Medical Center. Under FMCSA authority, testing must be done as soon as possible, but not to exceed 8 hours for alcohol testing and 32 hours for drug testing.
7. Procedure:
 - a. The coworker or supervisor must call the Risk Manager as soon as the accident occurs.
 - b. The Risk Manager will alert the City Nurse, and should she not be available, make a screening appointment for the coworker. The City Nurse should not be contacted directly.
 - d. For accidents after office hours, please refer to item number 5. above.

D. Random Testing

1. Under the City's own authority, a coworker in a safety sensitive classification will be subject to random testing. The selection of coworkers to be tested will be through a scientifically valid method that ensures each covered coworker will have an equal chance of being selected. The random tests will be unannounced and will occur throughout the year. A list of position titles identified as safety sensitive is maintained in Human Resources. Titles may be added/deleted for business and safety reasons and will be reissued separately from the policy.
2. Random Testing will be done under Federal Motor Carrier Safety Administration (FMCSA) authority for coworkers covered by FMCSA regulations. The selection of coworkers to be tested will be through a scientifically valid method that ensures each covered coworker will have an equal chance of being selected. The random tests will be unannounced and spread throughout the year. Testing rates will comply with the rates established by US DOT (United States Department of Transportation).
3. Random testing is administered through the Risk Management division.

E. Return-to-Duty Testing

1. Coworkers permitted to return to work after failing a drug or alcohol test will be required to submit to a drug and/or alcohol test before being returned to duty.

F. Follow-up Testing

1. Coworkers permitted to return to duty after a positive Federal Motor Carrier Safety Administration (FMCSA) test will be subject to FMCSA guidelines.

G. Coworker Requested Testing

1. A coworker who has been informed of positive drug test results and questions the validity of those results may request that an additional test on the same specimen be conducted at another approved laboratory. The cost for such tests will be paid by the coworker. The coworker has five calendar days to notify Human Resources that he/she is requesting another test.
2. For tests conducted under Federal Motor Carrier Safety Administration (FMCSA) authority, the coworker has 72 hours after notification of a positive test result to request another test. The request must be made to the MRO (Medical Review Officer) and the test must be

conducted at another DHHS-approved (Department of Health and Human Services) laboratory on the split sample that was provided by the coworker when the original sample was given.

H. Coworkers awaiting test results

1. Post-accident tests – If the employee is drug or alcohol tested, at the discretion of the Risk Manager, the coworker should be sent home or removed from driving until a negative test result is received. If the employee is sent home, the time off will be without pay, or, at the coworker's option, vacation time or comp time may be used.
2. Reasonable suspicion tests - The coworker will not be permitted to remain at work. He/she will be taken home or the supervisor will arrange for other means of transportation. The coworker will not be permitted to return to work until a negative test result is received. The time off will be without pay; if the test results are negative, pay will be reinstated provided that disciplinary action is not taken for violation of other City or departmental policy.
3. Random tests - The coworker will be returned to his/her regular duties upon completion of the required test(s).

VII. CONDUCTING THE TESTS

A. Drug tests

1. A urine test will be used to detect the presence of drugs. The City reserves the right to change to other medically approved testing methods as needed in the future.
2. Testing will be conducted in such a way as to assure a high degree of accuracy, reliability, and confidentiality. For tests conducted under FMCSA authority the regulations include, but are not limited to, the Drug-Free Workplace Act and the U.S. Department of Transportation (US DOT) regulations published in 49 CFR Parts 40, 382, 391, 392, 395, 653, 654 and 655 as amended. Drugs or the metabolites of drugs tested for include amphetamines, barbiturates, benzodiazepines, cocaine, marijuana, opiates, phencyclidine, Propoxyphene and Methadone. In addition, screening will also include Semi-synthetic opioids: Oxycodone, Hydrocodone AKA Vicodin, Hydromorphone AKA Dilaudid, Demerol, and Fentanyl. For tests performed under FMCSA (Federal Motor Carrier Safety Administration) authority, only amphetamines, cocaine, marijuana, opiates, semi-synthetic opioids and phencyclidine will be tested for; the City, however, reserves the right to test for additional substances.
3. Samples will be collected and processed using a strict chain of custody. For tests conducted under Federal Motor Carrier Safety Administration (FMCSA) authority, samples will be collected using the split sample method.
4. An initial drug screen will be conducted on each specimen. If the results of the initial screen are positive, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed.
5. For Federal Motor Carrier Safety Administration (FMCSA) the test will be considered positive if the amounts present are above the US DOT established minimum thresholds.
6. Under the City's authority the test will be considered positive based on guidance provided by

North Carolina State laws.

7. The MRO will make the decision of a positive or negative result if the test is reported as dilute. The City of Hickory has designated Heart Industrial Clinic as the MRO (Medical Review Officer).
8. For tests done under the City's authority, the Risk Manager will notify applicants and coworkers of the test results and of their right to explain a positive test result. For tests done under FMCSA authority, the testing laboratory will notify the MRO of positive test results. The MRO will receive and review test results, contact the applicant or coworker, and determine if there is a valid medical reason for a positive result. If there is a valid medical reason for a positive test, the test will be reported to the City as negative; if there is not a valid medical reason, the test will be reported to the City as positive. Test results will be reported to the City's program manager/contact person.
10. Applicants and coworkers have the right to have a sample retested at another certified laboratory according to the procedures explained in section 6H.

B. Alcohol tests

1. Alcohol tests will be conducted using blood, saliva or breath samples. For tests conducted under FMCSA authority, only breath or saliva samples will be used. Tests will be conducted using National Highway Traffic Safety Administration-approved testing devices operated by a trained alcohol technician.
2. When breath samples are used, an initial screening test will be done. If the results are not negative, a second confirmation test will also be performed.
3. The alcohol technician will release the results of the test to the employee and to the City's program manager/contact person.

VIII. CONSEQUENCES OF A POSTIVE TEST

- A. An applicant shall be denied employment unless drug test results are negative.
- B. If a coworker's drug or alcohol test results are positive, the coworker will be subject to disciplinary action, up to and including dismissal. Coworkers will be encouraged to seek counseling through the Employee Assistance Program and to follow the recommendations of the counselor.
- C. As required by FMCSA (Federal Motor Carrier Safety Administration) regulations, a covered coworker who has a confirmed positive drug or alcohol test will be removed from his/her position, informed of educational and rehabilitation programs available, and referred to a Substance Abuse Professional for assessment who will determine what treatment, if any, is necessary. The coworker must pass a return-to-duty test before returning to safety-sensitive duties. Disciplinary action, up to and including dismissal, may still be taken by the City.
- D. In addition, for sworn police officers and coworkers, positive test results and refusals to be tested will be reported to the Chief of Police or his designee who will report said information as required by the North Carolina Department of Justice, Criminal Justice Standards Division.

IX. CONFIDENTIALITY / DISCLOSURE OF INFORMATION

- A. All drug and alcohol records will be maintained in a secure location with limited access so that confidentiality is maintained.
- B. The City's program manager (Human Resources Manager) and/or contact person will receive test results and notify the appropriate department/division head.
- C. The MRO (Medical Review Officer – Hart Industrial Clinic) may release information to the SAP (Substance Abuse Professional) who is evaluating an employee in the case of a drug-related violation. The MRO will obtain a release from the employee prior to doing so.
- D. Information will be released to others only under the following circumstances:
 - 1. To a third party only as directed by specific, written instruction of the employee;
 - 2. To the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on the behalf of the employee tested;
 - 3. To a subsequent employer upon receipt of a written request from the employee;
 - 4. To the National Transportation Safety Board during an accident investigation;
 - 5. To the Department of Transportation or any of its agencies with regulatory authority over the employer or its employees;
 - 6. To the employee, upon written request.

X. ATTACHMENTS

- 1. City of Hickory Request for drug and/or Alcohol Test
- 2. Instructions for Requesting Drug and/or Alcohol Test
- 3. City of Hickory Drug and Alcohol Screening Employee Authorization and Consent Form

For questions regarding this policy and procedure, contact:

Risk Management or Human Resources
City Hall, 76 North Center Street
Hickory, NC 28601
828-323-7421

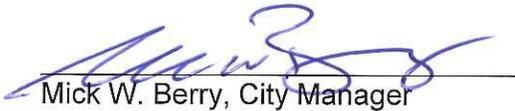
After hours contact: 828.323.7500 and ask to locate:

Todd Shoebridge, Risk Manager
Claudia Main, Human Resources Manager



Todd Shoebridge, Risk Manager

9/02/15
Date



Mick W. Berry, City Manager

9/1/15
Date

CITY OF HICKORY
REQUEST FOR DRUG AND/OR ALCOHOL TEST
(Refer to the City of Hickory's Drug and Alcohol Policy and Procedure)

Coworker's Name _____ Date _____

Department/Division _____

Post Accident:

_____ Drug

_____ Alcohol

_____ Drug (DOT) – Testing will be done under FMCSA authority if there is a fatality or if the City of Hickory driver receives a citation. Test must be conducted within 32 hours of the incident. The employee must have a CDL license and be in a position that requires a CDL license.

_____ Alcohol (DOT) – Testing will be done under FMCSA authority if there is a fatality or if the City of Hickory driver receives a citation. Test must be conducted within 8 hours of the incident. The employee must have a CDL license and be in a position that requires a CDL license.

Reasonable Suspicion:

Definition -Expressible belief based on objective facts and rational inferences that an employee has used drugs/alcohol. Some indications include observation of use, abnormal conduct or erratic behavior (such as slurred speech, dulled reaction, glassy eyes, mood swings, etc), pattern of excessive absenteeism, tardiness, or poor work performance, pattern of unexplained preventable accidents and/or odor of alcohol.

_____ Drug

_____ Alcohol

Other (Example-Return to Duty Testing, Follow Up Testing, Coworker Requested Testing, etc):

Explain:

_____ Drug

_____ Alcohol

Comments: _____

Supervisor _____ Date _____

Department Head or Designee _____ Date _____

INSTRUCTIONS FOR REQUESTING DRUG/ALCOHOL TEST

1. Complete the form on the other side of this page. Use the "comments" section for any additional information you feel is needed, such as special circumstances, witnesses, etc.
2. Be sure the form is signed by the immediate supervisor and the department head or designee.
3. Contact the Human Resources Department (323-7421) to arrange for the test(s).
4. Explain the City's drug policy to the coworker.
5. Notify the coworker that he/she will be tested and the reason(s) for the test(s).
6. Have the coworker sign the appropriate consent form.
7. Take the coworker to the test site.
8. Send the completed forms (this form and consent form) to the Human Resources Department. If the City Nurse is conducting the test, bring the forms with you when you bring the coworker for the test.
9. If an accident or other incident occurs after 5:00 p.m. or on a weekend, notify the Human Resources Department at 8:30 a.m. on the next working day. If you believe an immediate test is needed, take the coworker to a hospital emergency room (see special instructions below for CDL tests) and ask the hospital to perform the appropriate test (drug and/or alcohol). Ask the hospital for a release of information form stating that results of the tests will be sent to the City Nurse and have the coworker sign it.

For post-accident tests which are required for CDL drivers under the authority of Federal Motor Carrier Safety Administration (FMCSA), testing will be done by Catawba Valley Medical Center (emergency room entrance).

CITY OF HICKORY DRUG AND/OR ALCOHOL SCREENING
EMPLOYEE AUTHORIZATION AND CONSENT FORM

(IMPORTANT: Please read this notice before signing)

I hereby authorize the City of Hickory to obtain a sample of my urine and/or blood for the purpose of conducting a drug and/or alcohol screening test. I further authorize the testing laboratory to release the results of these tests to the City of Hickory.

I understand that:

1. Screening tests will be conducted to determine if I have been using illegal drugs, or if I am under the influence of drugs or alcohol on the job.
2. Refusal to consent to this test may result in termination of employment with the City of Hickory.
3. An initial positive drug test will be confirmed by a second test on the same sample.
4. A confirmed positive test will result in disciplinary action, up to and including dismissal.
5. I may discuss positive test results with the City Physician to determine if there are alternative explanations for the tests results.
6. Disciplinary actions following a positive result may be appealed through the City's Grievance Procedure.
7. Drug and/or alcohol counseling is available to City coworkers through the Employee Assistance Program.

Signature of Coworker _____ Date _____

Witness _____ Date _____

Coworker refused to sign (Witness should sign above and initial here) _____

THE CITY OF HICKORY IS COMMITTED TO MAINTAINING A DRUG-FREE WORKPLACE