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|  | Policy: Drug & Alcohol-Free Workplace Policy DOT-FMCSA | Effective Date: March 1, 2002 |
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| | <hr/> City Manager | <hr/> Human Resources Responsible Party |

DISCLAIMER

THE ATTACHED SUBSTANCE ABUSE POLICY IN NO WAY CREATES A CONTRACT OF EMPLOYMENT. UNDERSTAND THAT YOUR EMPLOYMENT IS AT WILL, WHICH MEANS THAT YOU, AS WELL AS THE CITY OF MONROE HAVE THE RIGHT TO END THE EMPLOYMENT RELATIONSHIP AT ANY TIME FOR ANY REASON OR FOR NO REASON WITH OR WITHOUT NOTICE.

THE CITY OF MONROE RESERVES THE RIGHT TO MODIFY, REVOKE, SUSPEND, TERMINATE OR CHANGE ANY OR ALL OF THE SUBSTANCE ABUSE POLICIES OR PROCEDURES, AT ANY TIME, WITH OR WITHOUT PREVIOUS NOTICE.

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I. INTRODUCTION

The U.S. Department of Transportation (DOT) has issued regulations which govern the use of drugs and alcohol by employees who hold a Commercial Driver’s License (CDL) and operate a Commercial Motor Vehicle (CMV). The DOT requires the City of Monroe to conduct mandatory drug and alcohol testing of CDL drivers at the times of and under the conditions described in this policy.

The City of Monroe is dedicated to providing safe, reliable and professional services to our citizens. City of Monroe employees are our most valuable resource and it is our goal to provide a healthy, satisfying working environment, which promotes personal opportunities for growth. In meeting these goals, it is our policy to (1) assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner; (2) create a workplace environment free from the adverse effects of drug abuse and alcohol misuse; (3) prohibit the unlawful manufacture, distribution, dispensation, possession, and use of controlled substances; and (4) encourage employees to seek professional assistance anytime personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.

Neither this policy nor any of its terms are intended to create a contract of employment. The City of Monroe retains the sole right to change, amend or modify any term or provision of this policy without notice. This DOT/FMCSA policy is effective March 1, 2002 and will supersede all prior City of Monroe DOT/FMCSA policies and statements relating to alcohol or drug use by commercial motor vehicle drivers.

If any part of this policy is determined to be void or unenforceable under state or federal law, the remainder of this policy, to the extent possible, will remain in full force and effect.

II. DEFINITIONS

When interpreting or implementing these procedures, or the procedures required by the U. S. Department of Transportation (DOT) alcohol and controlled substance testing regulations, the following definitions apply:

“Adulterated specimen” means a specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine, or the physical characteristics of the specimen are outside the normal range expected for human urine. An adulterated drug test result is considered a refusal to submit.

“Alcohol” means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl and isopropyl alcohol.

“Alcohol concentration” means the concentration of alcohol in a person's breath as indicated by an evidential breath test (EBT).

“Alcohol use” means the drinking or swallowing of any beverage, mixture, or preparation, including any medication, containing alcohol.

“Collection site” means a place where individuals present themselves for the purpose of providing breath, body fluid, or tissue samples to be analyzed for specified controlled substances.

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“**Commercial Motor Vehicle (CMV)**” means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:

- (1) has a gross combined weight of 26,001 or more pounds including a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
- (2) has a gross vehicle weight of 26,001 or more pounds; or
- (3) is designed to transport 16 or more passengers including the driver; or
- (4) is of any size and is used in the transportation of Hazardous Materials as defined by the Hazardous Materials Transportation Act.

“**Controlled Substance**” means any drug so designated by federal or state Controlled Substances Acts and/or whose availability is restricted. Included in such classifications are narcotics, stimulants, depressants, hallucinogens, marijuana and all substances listed on Schedules I through V as they may be revised from time to time.

“**Designated Employer Representative (DER)**” means an employee authorized by the City of Monroe to take immediate action(s) to remove an employee from safety-sensitive duties, or cause an employee to be removed from these covered duties, and to make required decisions in the testing and evaluation process.

“**Dilute Specimen**” means a specimen with creatinine and specific gravity values that are lower than expected for human urine. If the Medical Review Officer (MRO) informs the City that a negative drug test was dilute, the employee will be directed to submit to another test immediately.

“**Driver**” means any person who operates a commercial motor vehicle. This includes, but is not limited to: full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer. For the purposes of pre-employment/pre-duty testing only, the term "driver" includes a person applying to an employer to drive a commercial motor vehicle.

“**Drug**” means any substance (other than alcohol) that is a controlled substance as defined in this section and 49 CFR Part 40.

“**FMCSA**” means the Federal Motor Carrier Safety Administration, U.S. Department of Transportation.

“**Invalid Test Result**” means the result of a drug test for a urine specimen contains an unidentified adulterant or an unidentified interfering substance, has abnormal physical characteristics, or has an endogenous substance at an abnormal concentration that prevents the laboratory from completing or obtaining a valid drug test result. If the City of Monroe receives a drug test result indicating an employee’s specimen is invalid, the employee will be directed to provide a new specimen under direct observation.

“**Medical Review Officer (MRO)**” means a licensed Medical Doctor or Doctor of Osteopathy with knowledge of drug abuse disorders that is employed or used by the City of Monroe to review drug testing results.

“**On duty time**” means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing safety-sensitive functions.

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“Performing (a safety-sensitive function)” means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive function.

“Reasonable cause” means that the City of Monroe believes the actions or appearance or conduct of a commercial motor vehicle driver who is on duty as defined below, are indicative of the use of alcohol or a controlled substance.

“Refuse to submit (to an alcohol or controlled substances test)” means that a driver:

- (1) Fails to provide adequate breath for alcohol testing as required by the DOT regulations, without a valid medical explanation, after he or she has received notice of the requirement for breath testing; or
- (2) Fails to provide an adequate urine sample for controlled substances testing as required by the DOT regulations, without a valid medical explanation of genuine inability to provide a specimen (as determined by a medical evaluation), after he or she has received notice of the requirement for urine testing; or
- (3) Fails to appear for any test within a reasonable time, as determined by the City of Monroe; or
- (4) Fails to remain at the testing site until the testing process is complete; or
- (5) Fails to undergo a medical examination or evaluation, as directed by the City of Monroe as part of the insufficient breath or urine procedures: or
- (6) Fails to cooperate with any part of the testing process; or
- (7) Engages in any conduct that clearly obstructs the testing process.

NOTE: An employee who fails to provide a sufficient amount of urine for a drug test or a sufficient amount of breath for a breath test will be directed to obtain within five working days an evaluation from a licensed physician, acceptable to the MRO, who has expertise in the medical issues raised by the employee’s failure to provide a sufficient specimen.

“Safety-sensitive function” means any of those on-duty functions set forth in CFR 49 section 395.2. See “On duty time”.

"Safety-sensitive function" shall include the performance of the following:

- (1) All time at a facility, or other City property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the City;
- (2) All time inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- (3) All driving time;
- (4) All time, other than driving time performing all other functions, in or upon any commercial motor vehicle;

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- (5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;
- (6) All time spent performing the driver requirements relating to accidents;
- (7) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

“Screening Test Technician (STT)” means a certified individual who instructs and assists employees in the alcohol screening test process and operates an approved alcohol saliva device.

“Shy Bladder” means an employee has not been able to provide a sufficient urine specimen within the three hours of the first unsuccessful attempt to provide the specimen.

“Shy Lung” means an employee has not been able to provide a sufficient breath specimen after attempts by the Breath Alcohol Technician to collect the specimen.

“Split Specimen” means in drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

“Substance Abuse Professional (SAP)” means a licensed physician (Medical Doctor or Doctor of Osteopathy) or a licensed or certified psychologist, social worker, employee assistance professional, or certified addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

“Substituted Specimen” means a specimen with creatinine and gravity values that are so diminished that they are not consistent with human urine. A substituted drug test result is considered a refusal to submit.

“Validity Testing” means the evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

III. PROHIBITED DRUG AND ALCOHOL USE AND ACTIVITIES

The goals of the City of Monroe’s policy and the testing of drivers are to insure a drug and alcohol-free transportation and work environment, and to reduce and help eliminate drug and alcohol-related accidents, injuries, fatalities, and damage to property.

In furtherance of the City’s goals, the conduct specified below is prohibited whenever a driver is on duty; whenever a driver is performing, or just about to perform, a safety-sensitive function; whenever a driver is otherwise engaged in City business; or at the times otherwise specified in this policy.

ALCOHOL PROHIBITIONS

The alcohol rule prohibits any alcohol misuse that could affect performance of a safety-sensitive function, including:

- (1) Use while performing safety-sensitive functions;

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- (2) Use during the 4 hours before performing safety-sensitive functions;
- (3) Reporting for duty or remaining on duty to perform safety-sensitive functions with an alcohol concentration of 0.04 or greater;
- (4) Possession of alcohol, unless the alcohol is manifested and transported as part of a shipment. This includes the possession of medicines containing alcohol (prescription or over-the-counter), unless the packaging seal is unbroken;
- (5) Use during 8 hours following an accident, or until he/she undergoes a post-accident test;
- (6) Refusing to take a required test.

Note: A driver found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall not perform, nor be permitted to perform, safety-sensitive functions for at least twenty-four (24) hours.

DRUG PROHIBITIONS

The regulations prohibit any drug use that could affect performance of safety-sensitive functions, including:

- (1) Use of any drug, except by doctor's prescription, and then only if the doctor has advised the driver that the drug will not adversely affect the driver's ability to safely operate the CMV;
- (2) Testing positive for drugs; and
- (3) Refusing to take a required test.

EMPLOYER NOTIFICATION OF CONTROLLED SUBSTANCE USE

All drivers will inform their supervisor of any therapeutic drug use prior to performing a safety-sensitive function.

Drivers taking legally prescribed medications issued by a licensed health care professional familiar with the driver's work-related responsibilities must report such use to their immediate supervisor or dispatcher, and may be required to present written evidence from the health care professional which describes the effects such medications may have on the driver's ability to perform his/her tasks.

In the sole discretion of the alcohol and drug abuse program coordinator, a driver may be temporarily removed from a safety-sensitive position if deemed appropriate.

IV. PREVIOUS EMPLOYER INQUIRIES

DOT/FMCSA requires the City of Monroe to contact a driver's prior employers for the preceding two years from the date of application for all new drivers that the City hires. The driver must sign an authorization form allowing the City to obtain past drug and alcohol test results from the driver's prior employers. This authorization form will allow the City to obtain information about past drug and alcohol test results and any refusals to test. This information must be obtained by the City as soon as possible after the first time a driver performs a safety-sensitive function. If the City obtains information that the driver failed a required drug or alcohol test or refused a required test, the driver must provide documentation pertaining to the SAP evaluation and compliance with the SAP

recommendations and follow-up testing program before the driver will be allowed to continue performing safety-sensitive functions.

Any driver that refuses to sign an authorization form will not be considered eligible to work for the City of Monroe.

V. TESTS REQUIRED

RIGHT OF REFUSAL

No driver shall refuse to submit to a post-accident, random, reasonable cause/suspicion, return to duty, or follow-up test for controlled substances or alcohol. Under 49 CFR Section 383.72, any person who holds a CDL is deemed to have consented to such testing as is required of him/her. Consent is implied by driving a commercial motor vehicle. Refusal will result in the driver being immediately removed from safety-sensitive functions, and he/she will be subject to further disciplinary action as defined in Section VIII of this policy.

PRE-EMPLOYMENT/PRE-DUTY TESTING

All driver applicants will be required to submit to and pass a drug test as a condition of employment. Offers of employment are made contingent upon passing the drug test. Under no circumstances may a driver perform a safety-sensitive function until a confirmed negative result is received. Job applicants who are denied employment because of a positive test may only be considered for future employment after two years and after producing documentation of successful completion of a certified rehabilitation program.

A pre-employment/pre-duty drug test will also be required before any existing worker in a non-regulated position will be assigned, transferred or otherwise permitted to operate a commercial motor vehicle on behalf of the City for the first time.

POST-ACCIDENT TESTING

A driver who is performing a safety-sensitive function must submit to a post-accident drug test and a post-accident alcohol test as soon as possible after the occurrence of any accident that meets the criteria listed below.

- (1) A driver must always submit to a post-accident test as soon as possible after an accident that involves the death of a human being.
- (2) A driver must submit to a post-accident test as soon as possible after an accident whenever the driver receives a citation for a moving violation arising from the accident and : (1) there is bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or (2) one or more motor vehicles incur disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

No driver who is required to take a post-accident test shall consume alcohol for eight (8) hours following the accident or until he/she undergoes such testing, whichever comes first. Any driver who is subject to post-accident testing shall remain readily available and on call for a period of eight (8) hours for alcohol testing or for thirty-two (32) hours for controlled substances testing, or until testing has been completed, whichever comes first. Any driver who does not remain readily available for such testing may be deemed to have refused to submit to testing. This requirement does not in any way require the delay of necessary

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medical attention for injured people following an accident, nor does it prohibit the driver from leaving the scene of an accident for the period of time necessary to obtain assistance and/or necessary emergency medical care.

If a driver is required to take a post-accident test:

The Alcohol test shall be administered within two (2) hours of the accident. If this is not possible, the driver shall report this information to his/her supervisor and the supervisor shall make a written report as to the reason why an alcohol test was not administered within the two (2) hour time frame. The driver and the supervisor must then ensure that the alcohol testing be completed within eight (8) hours of the accident. If the alcohol testing is not completed within the eight (8) hour time frame, the supervisor must then complete another written report stating the reason that an alcohol test was not able to be administered. All attempts to obtain an alcohol test shall cease after the allotted eight (8) hour time frame has passed.

The Controlled Substances test (drug test) shall be administered within thirty-two (32) hours of the accident. If this is not possible, the driver shall report this information to his/her supervisor and the supervisor shall make a written report as to the reason why a drug test was not administered within the thirty-two (32) hour time frame.

Any driver that does not remain readily available for such testing or that in any way delays the testing process may be deemed to have refused to submit to testing and will be subject to disciplinary action as defined in Section VIII of this policy.

RANDOM TESTING

The City is required to test drivers for alcohol and controlled substances on a random basis, and all such tests will be unannounced ahead of time.

- (1) Under the City's random selection process, every driver will have an equal chance of being selected each and every time the selection is conducted.
- (2) The annual rate of drivers to be tested will be at least the minimum annual percentage rate as set each year by the DOT/FMCSA.
- (3) Random alcohol and drug tests will be unannounced and will be spread reasonably throughout the calendar year.
- (4) When a driver is notified of selection for random testing he/she shall be escorted by the supervisor or his or her designee to the testing site *immediately*. A driver who unnecessarily delays reporting to the test site may be subject to disciplinary action, up to and including termination.

REASONABLE CAUSE/SUSPICION TESTING

Federal regulations state that a driver is required to submit to a controlled substance and/or alcohol test whenever the City has reasonable cause/suspicion that the driver has used drugs and/or alcohol in violation of DOT regulations and/or this policy.

Reasonable cause/suspicion will exist when a driver's appearance, behavior, speech or body odors indicate drug or alcohol use, or the chronic and withdrawal effects of drugs.

Observations shall be made by a supervisor or another City of Monroe official who has received training covering the physical, behavioral, speech, and performance indicators of probable drug and alcohol use. When observations of this nature are made, the supervisor or official will obtain the concurrence of another

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supervisor or official if it is feasible to do so. These findings and observations will be documented on the "Reasonable Cause" Investigation form and signed by the witnesses within twenty-four (24) hours of the observed behavior or before the results of the drug test are released, whichever is earlier.

Whenever a driver is notified that there is reasonable cause/suspicion to be tested, the driver shall be escorted by the supervisor or his or her designee to the test site immediately to be tested. A driver who unnecessarily delays reporting to the test site may be subject to disciplinary action up to and including termination.

The City will attempt to contact the driver's spouse, another member of the family, or another person designated by the driver, in order to make arrangements for transporting the driver to his/her home after the test is completed. In the event the City is unable to contact the driver's spouse, family member or another designated person, the City will make arrangements for transporting the driver to his/her home at the driver's expense. Under no circumstances will the driver be allowed to drive a City vehicle or his/her own vehicle until a confirmed negative test result is received. If the driver rejects the City's efforts in this regard and instead insists on driving his/her personal vehicle, the City reserves the right to take whatever means are appropriate to prevent this, including contacting appropriate law enforcement personnel and imposing disciplinary action, up to and including termination.

A driver who is required to take a reasonable suspicion test will be suspended from duty, pending the results of his/her test.

RETURN-TO-DUTY TESTING

No return-to-duty testing will be available once an employee has tested positive for a controlled substance or for alcohol (0.04 or greater).

FOLLOW-UP TESTING

Follow-up testing will be conducted only if an employee voluntarily enters rehabilitation for drug and/or alcohol abuse before testing positive. The driver shall be evaluated by a Substance Abuse Professional. If the Substance Abuse Professional determines that the driver is in need of assistance in resolving problems associated with alcohol and/or controlled substance use, the driver will be subject to unannounced follow-up testing as directed by a Substance Abuse Professional, with no less than six (6) tests being given within the twelve (12) month period following a return to duty. All such tests will be conducted without prior notice being given to the driver.

VI. TESTING METHODOLOGY AND INTEGRITY

To ensure the integrity and accuracy of each test, all specimen collection, analysis, and laboratory procedures shall be conducted in accordance with DOT's procedural protocols and safeguards set forth in Part 40 of Title 49 of the Federal Code of Regulations. This currently includes, among other things:

- (1) Procedures to ensure the correct identity of each driver at the time of testing;
- (2) A strict chain-of-custody procedure to ensure that the specimen is not tampered with;
- (3) The use of a trained breath alcohol technician (BAT) and DOT-approved testing devices for conducting alcohol tests;
- (4) The use of a laboratory which has been certified by the U.S. Department of Health and Human Services (DHHS) for conducting drug tests;
- (5) The confirmation of an initial positive drug screen by a second analysis using gas chromatography/mass spectrometry (GC/MS);
- (6) The confirmation of an initial positive alcohol screen by a second analysis; and
- (7) The use of a medical review officer (MRO) to review drug test results.

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FOR ALL DRUG TESTS

All drug tests conducted under this policy require that the driver must provide a specimen of his/her urine. The DOT requires all drug testing to be conducted by a laboratory certified by the Department of Health and Human Services (DHHS).

Urine specimens will be analyzed for the presence of the following drugs: (1) marijuana; (2) cocaine; (3) opiates; (4) amphetamines; and (5) phencyclidine. Specimens will also be analyzed for such other substances as DOT may from time-to-time direct or as may otherwise be permitted by federal or state law. In the event DOT expands the list of drugs for which testing is or may be required, the City reserves the right to begin testing immediately for those drugs without prior notice to drivers/applicants, unless notice is required by DOT or another applicable law.

In general, drivers will be permitted to give a urine specimen in privacy and without being observed by collection site personnel. However, a driver forfeits this right whenever there is reason to believe that he/she may alter or substitute a specimen. A driver shall be given up to three (3) hours to provide a sufficient urine specimen. If the employee fails to provide a sufficient amount of urine specimen during the allotted time, the driver will be directed to obtain, within five days, an evaluation from a licensed physician, acceptable to the MRO, who has expertise in the medical issues raised by the driver's failure to provide a sufficient specimen. If there is not an adequate basis for determining that a medical condition precluded the driver from providing a sufficient amount of urine, it will be treated as a refusal to submit and the disciplinary actions associated with such refusal shall apply.

All drug tests will be administered using the split sample methodology required by DOT. Under this methodology, the driver must provide at least 45 milliliters (ml) in a specimen container. The specimen will then be divided into two specimen bottles by the collector. 30 ml will be poured into one bottle and 15 ml into a second bottle. Both bottles will be sent to the laboratory. The bottle containing 30 ml will be analyzed as the driver's primary specimen. The second bottle will be held by the laboratory, to be sent to another lab at the driver's request in the event that the primary specimen is verified as a positive, substituted or adulterated test. In the event the primary specimen is verified as a positive, substituted or adulterated test, the driver will be notified either by the City's MRO or by a City representative of the test result and given the option to have the second bottle sent to a different laboratory for analysis.

To exercise this option, the driver must advise the City's MRO within seventy two (72) hours of being told the test result. Except for the use of methadone and medications containing alcohol, nothing in this policy prohibits a driver's use of a medication legally prescribed by a licensed physician: (1) who is familiar with the driver's medical history and specific safety-sensitive duties, and (2) who has advised the driver that the prescribed medication will not adversely affect the driver's ability to operate a motor vehicle safely. Medications prescribed for someone other than the driver, however, will be considered unlawfully used when taken by the driver under any circumstances.

After being tested for drugs, drivers will be given an opportunity to list, on their copy of the chain-of-custody form, all prescription and non-prescription medications being lawfully used by that driver at that time. A "positive" drug test may be declared "negative" by the City's MRO, if the driver can prove with clear and convincing evidence that the drug which was used was prescribed by a licensed physician who is familiar with the driver's medical history and specific duties. The determination of this will be made by the MRO.

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FOR ALL ALCOHOL TESTS

Alcohol tests must be administered just before, during or just after the employee performs a safety-sensitive function. Screening alcohol tests may be conducted by a Screening Test Technician (STT) using an approved alcohol saliva swab or a Breath Alcohol Technician (BAT) using an approved Evidential Breath Testing (EBT) device. Confirmatory alcohol tests will be administered by a BAT using an approved EBT device. Tests conducted by federal, state or local officials at the scene of an accident may involve other methods of testing.

Before being tested, each driver will be required to: (1) present his/her personal identification, and (2) execute a DOT "Breath Alcohol Test Form" provided by the STT or BAT. A driver who refuses to provide his/her identification, provides false identification, refuses to execute the DOT "Breath Alcohol Test Form", or who otherwise refuses or fails to cooperate will be subject to disciplinary action as defined in Section VIII of this policy.

SALIVA ALCOHOL TESTS

To protect each driver, the STT will open the sealed package containing the test in the driver's view. The STT will offer the driver the opportunity to saturate the saliva swab with saliva. If the driver declines, or tries unsuccessfully, the STT will administer the test.

In the event that a driver is unable to provide an adequate amount of saliva after several attempts to do so, the driver will be given an alcohol screening test using an EBT device.

BREATH ALCOHOL TESTS

To protect each driver, the BAT will open and attach to the testing device an individually-sealed mouthpiece in the driver's view. The driver will then be directed to blow forcefully into the breath testing device until an adequate amount of breath has been maintained.

In the event that a driver is unable to provide an adequate amount of breath for the initial or confirmatory test after several attempts to do so, the driver will be directed to obtain, within five days, an evaluation from a licensed medical physician to determine whether a valid medical condition exists. If the physician determines that a valid condition does exist, this information will be reported to the City of Monroe. If the physician determines that a valid medical condition does not exist, the driver will be considered to have refused to submit to testing and will be subject to the disciplinary action as defined in Section VIII of this policy.

VII. TESTS RESULTS

FOR DRUG TESTS

Before a driver's test result will be verified positive, substituted or adulterated, the driver will be given the opportunity to speak with the City's MRO and demonstrate that there was a legitimate medical explanation for the test result. If the MRO determines that a legitimate medical reason does exist, the test result will be reported to the City as "negative." If the MRO determines that a legitimate medical reason does not exist, the test result will be reported to the City as "positive".

Drivers who are tested for drugs are required to remain in contact with their Department Director or the Human Resources Director and the City MRO while awaiting the results of their tests. Drivers are also required to advise their Department Director or the Human Resources Director of their whereabouts and the telephone number where they can be reached during this time. A driver who refuses or fails to remain in

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contact with the City or the City's MRO may waive his/her right to speak with the MRO before a test is verified.

In the event that the test result of a driver's primary specimen is positive, substituted or adulterated, the driver will be notified by the City or its MRO and advised that he/she has seventy two (72) hours to request that the MRO send his/her split specimen to a second, DHHS certified laboratory for analysis. All costs associated with the testing of the split specimen will be the responsibility of the employee; however, the City will ensure that any request for a retest will be performed in a timely manner. The City will not suspend disciplinary actions pending the outcome of the split specimen analysis. If the testing of the split specimen does not confirm the test results of the primary specimen, the employee will be reimbursed for the cost of having the split specimen tested.

FOR ALCOHOL TESTS

In the event that the driver provides an adequate specimen and the initial test registers an alcohol concentration level that is less than 0.02, the test result will be reported as a "negative" and no additional test will be required at that time.

In the event that the driver provides an adequate specimen and the initial test registers an alcohol concentration level of 0.02 or greater, a second confirmatory test will be performed. In the event that the driver provides an adequate specimen and the confirmatory test registers less than 0.02, the test results will be reported to the City as "negative."

DOT prohibits any driver whose confirmatory test registers 0.02 or more but less than 0.04 from performing or from continuing to perform any safety-sensitive functions for twenty-four (24) hours. The driver will be immediately removed without pay from safety-sensitive duties for a period of at least twenty-four (24) hours. Additional occurrences of confirmatory test results of 0.02 or more but less than 0.04 will result in further disciplinary action up to and including termination.

A driver who has a confirmatory test that registers 0.04 or greater will be immediately terminated and referred to a Substance Abuse Professional (SAP) for an evaluation.

VIII. DISCIPLINARY ACTION & REHABILITATION

The City will attempt to assist employees identified with an alcohol or drug problem to the extent that the employee desires assistance. However, in the event that an employee violates this policy, the following discipline shall be imposed:

- (1) The use, sale, purchase, possession, manufacture or distribution, or dispensation of alcohol or illegal drugs on City property or while on duty is prohibited and will result in immediate termination.
- (2) Any driver that ***tests positive on an alcohol test with a level of 0.02 or more but less than 0.04*** will be immediately removed without pay from safety-sensitive duties for a period of at least twenty-four (24) hours. Depending upon the circumstances, the driver may also be subject to other disciplinary action. Additional occurrences of confirmatory test results of 0.02 or more but less than 0.04 will also result in further disciplinary action up to and including termination.
- (3) Any driver that ***tests positive on an alcohol test with a level of 0.04 or greater*** will be immediately terminated and referred to a Substance Abuse Professional (SAP) for an evaluation.
- (4) Any driver that ***tests positive on a controlled substance/drug test*** will be immediately terminated and referred to a Substance Abuse Professional (SAP) for an evaluation.

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- (5) Any driver that is considered to have refused to submit to testing will be immediately removed from safety-sensitive duties, referred to a Substance Abuse Professional and the driver's employment will be immediately terminated.
- (6) Any driver who fails to pass the drug or alcohol test and is terminated will not be considered for re-employment for a two-year period following the date of the test and then will be considered only when (a) he or she provides documentary proof that he or she has successfully completed a drug and/or alcohol abuse treatment or rehabilitation program and (b) he or she passes a pre-placement drug and/or alcohol test.
- (7) The City will not be responsible for bearing any costs associated with the evaluation, treatment, counseling, or rehabilitation by the driver; nor shall the City be responsible for any losses incurred by the driver as a result of testing positive under this program.
- (8) The City recognizes alcoholism and drug abuse as treatable conditions. Drivers are encouraged to voluntarily seek assistance prior to there being cause for disciplinary action. The purpose of this program is to assist all drivers whose work performance or behavior is being adversely affected by certain non-work related problems. The problem may not appear to be job related but will eventually affect job performance. The intent is to rehabilitate the employee, not just to take disciplinary action against the employee.
- (9) Any driver that would like information on available treatment programs or on available methods of intervention when an alcohol or a controlled substances problem is suspected, including confrontation or referral may contact the City's Alcohol and Drug Abuse Program Coordinator.

IX. EMPLOYEE ASSISTANCE PROGRAM (EAP)

The City of Monroe offers an Employee Assistance Program (EAP) benefit for employees and their dependents. The EAP provides confidential assessment, referral and short term counseling for employees who request the service.

The EAP is available to provide information and assist employees in confidentially obtaining treatment for substance abuse problems before their health, safety and work performance are affected. Employees may voluntarily participate in services and programs offered by the EAP; however, once notified of the requirement to submit to a drug or alcohol test, the employee may not state participation in the EAP as an "excuse" or "defense" to avoid testing nor to prevent disciplinary action from being taken as a result of a positive test.

X. CONFIDENTIALITY

Records are confidential and will be maintained in a secure location with controlled access. The release of an individual driver's results will only be given in accordance with an individual driver's written authorization, or as is otherwise required by DOT's regulations, or by other applicable federal or state law.

Records will be made available to a subsequent employer upon receipt of a written request from the driver. Disclosure to the subsequent employer is permitted only as expressly authorized by the terms of the driver's request.

XI. EDUCATION PROGRAMS

DRIVERS

The City of Monroe is required to provide all drivers with the following information in accordance with DOT/FMCSA regulations. The information to be provided to each driver must include:

- (1) The categories of drivers subject to the DOT Alcohol & Drug Rule.
- (2) Sufficient information about the safety-sensitive functions and the periods of the workday that compliance is required.
- (3) Specific information concerning DOT Alcohol & Drug Prohibitions.
- (4) Circumstances under which a driver will be tested.
- (5) Alcohol and drug testing procedures.
- (6) An explanation of what will be considered a refusal to submit to testing and the consequences.
- (7) An explanation of the consequences of violating the Alcohol or Drug Prohibitions.
- (8) Information on the affects of alcohol and controlled substance use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem; and available methods of intervening when an alcohol or a controlled substances problem is suspected.

SUPERVISORS

Any employee designated by the City to determine whether reasonable suspicion exists and who could require another employee to be tested must receive the following additional training:

- (1) Sixty (60) minutes of training on drug use.
- (2) Sixty (60) minutes of training on alcohol use.

The training must cover the physical, behavioral, speech and performance indicators of drug use and alcohol misuse.

XII. EFFECTS OF DRUGS AND ALCOHOL ON HEALTH, WORK AND HOME, AND SIGNS AND SYMPTOMS OF A PROBLEM

Alcohol and drug misuse can have disastrous effects on a person's health, work and home life. The following information is provided to assist all employees in learning about the serious consequences of substance abuse and to assist supervisors in identifying the signs and symptoms of misuse when observing employees.

Alcohol

Alcohol is a depressant that slows physical and mental reactions. Although alcohol is a socially accepted, legal substance, the detrimental effects of its over-consumption can be devastating. Alcohol related deaths from disease and accidents in this country top 200,000 per year! **Physical Symptoms** include lack of coordination, slurred speech, slowed reaction time, sleepy condition, blood-shot eyes, staggered walk, odor of alcohol on the breath. **Possible Health Effects** include addiction, fatal liver disease, decreased judgment, kidney disease, birth defects, ulcers.

Amphetamines and Methamphetamine or ICE

Amphetamines, and its derivatives, are stimulants that give a person a heightened sense of physical and mental energy. There are legal uses for these drugs, including physician prescribed diet pills; however,

medical use of these drugs is very limited. **Physical Symptoms** include restlessness, hyperactivity, increased blood pressure, talkativeness, aggressiveness, excessive mood swings. **Possible Health Effects** include strong psychological dependence, addiction, heart attack or stroke due to elevated rates, paranoia or schizophrenic feelings, fatigue, depression with withdrawal, brain damage.

Cocaine and Crack

Cocaine does have a very restricted medical use – it is used as a local anesthetic, particularly during nasal surgery. Cocaine is one of the most addictive and financially debilitating drugs of abuse. The effects of its use on the central nervous system are intense and can result in immediate death. **Physical Symptoms** include frequent and extended absences from the workstation, isolation from co-workers, severe mood swings, elusiveness, runny or irritated nose, impatience, risk taking, overreaction to stimuli, hallucinations. **Possible Health Effects** include high blood pressure, increased risk of heart attack, insomnia, paranoia, strong psychological dependence.

Marijuana

Marijuana remains a prevalent, illegal drug in today's society. Marijuana also has restricted medical usage, prescribed by some physicians for the nausea associated with cancer treatments such as chemotherapy. **Physical Symptoms** include red eyes, inappropriate or excessive laughing, lack of motivation, reduced concentration, irritating cough, "I don't care" attitude. **Possible Health Effects** include addiction, respiratory trouble, distorted sense of reality, sterility, decrease in fertility, higher infant mortality, birth defects.

Opiates - including Morphine, Codeine and Heroin

Opiates are often referred to as narcotics and are drugs prescribed by medical professionals to alleviate pain. The use of these drugs is illegal without a legitimate prescription. **Physical Symptoms** include constricted pupils, decreased alertness and functioning, nausea, high tolerance to pain, drowsiness, intoxication. **Possible Health Effects** include risk of contracting hepatitis or AIDS through sharing of needles, high risk of overdose, failure to recognize serious injury because of increased pain tolerance, strong psychological and physiological dependency, addiction.

Phencyclidine or PCP

There is no legitimate medical use of this drug in humans. It is used primarily for its mood altering effects. Overdose is very difficult to treat. **Physical Symptoms** include confusion, aggressive or hostile behavior, paranoia, mood swings, dizziness. **Possible Health Effects** include high potential for overdose and accidents, convulsions, coma, irreversible brain damage, flashbacks, heart and lung failure.

**CITY OF MONROE
SERVICE PROVIDERS**

The **CITY OF MONROE** has appointed a person to be the City's Substance Abuse Program Coordinator and all questions about the City's Substance Abuse Policy for FMCSA covered employees should be addressed to this person. The person that has been appointed as the Substance Abuse Program Coordinator is:

Human Resources Director

The following list is a list of the provider companies that the City of Monroe will be working with to conform to the requirements of the FMCSA Drug and Alcohol Testing Regulations.

SERVICE PROVIDERS

URINE COLLECTION:

**Monroe Urgent Care
613 W. Roosevelt Blvd.
Monroe, NC 28112
(704) 283-2442**

**OccMed
601 Waxhaw-Indian Trail Road
Indian Trail, NC 28079
(704) 821-1161**

BREATH ALCOHOL TESTING:

**Monroe Urgent Care
613 W. Roosevelt Blvd.
Monroe, NC 28112
(704) 283-2442**

TESTING LABORATORY:

**Advanced Toxicology Network
3560 Air Center Cove, Suite 101
Memphis, TN 38118
(901) 794-5770**

MEDICAL REVIEW OFFICER:

**Dr. Gwendolyn Whitley &
Dr. Ronald Plemmons
Wolfe DATA
681 Cabarrus Avenue W.
Concord, NC 28025
(800) 451-3743**

EMPLOYEE ASSISTANCE PROGRAM:

**Corporate Health International
4400 Park Road, Suite 330
Charlotte, NC 28209
(704) 529-1428
(800) 633-3353**

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EMPLOYEE ACKNOWLEDGEMENT

I _____, hereby acknowledge that the City of Monroe's U.S. Department of Transportation Federal Motor Carrier Safety Administration (FMCSA) Substance Abuse Policy has been reviewed and explained to me, and that I have received and had the opportunity to read a copy of this policy.

I certify that I have received the educational materials that the City is required to provide me in accordance with the Code of Federal Regulations, Title 49, Section 382.601. The materials I received included detailed discussions of the following items:

1. The categories of drivers subject to the DOT Alcohol & Drug Rule.
2. Sufficient information about the safety-sensitive functions and the periods of the workday that compliance is required.
3. Specific information concerning DOT Alcohol & Drug Prohibitions.
4. Circumstances under which a driver will be tested.
5. Alcohol and drug testing procedures.
6. An explanation of what will be considered a refusal to submit to testing and the consequences.
7. An explanation of the consequences of violating the Alcohol or Drug Prohibitions.
8. Information on the affects of alcohol and controlled substance use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem; and available methods of intervening when an alcohol or a controlled substances problem is suspected.

I acknowledge and agree that I am responsible for reading, understanding and complying with all Department of Transportation FMCSA regulations and City policies regarding alcohol and drug use and testing. I also understand that, because changes in the law or regulations may occur from time to time, terms and conditions of the City of Monroe's policy may also change without prior notice. I further understand that I will be subject to disciplinary action for violating FMCSA regulations and/or the City's policy. I have been advised that any questions with regard to the materials should be addressed to the City's Alcohol and Drug Abuse Program Coordinator, Cheryl Brown, Human Resources Director.

I UNDERSTAND THAT THE SUBSTANCE ABUSE POLICY AND RELATED DOCUMENTS ARE NOT INTENDED TO CONSTITUTE A CONTRACT BETWEEN THE CITY OF MONROE AND ME. I ALSO UNDERSTAND THAT MY EMPLOYMENT IS AT WILL, WHICH MEANS THAT I, AS WELL AS THE CITY HAVE THE RIGHT TO END THE EMPLOYMENT RELATIONSHIP AT ANY TIME FOR ANY REASON OR FOR NO REASON WITH OR WITHOUT NOTICE AS APPLICABLE PER STATE & FEDERAL LAWS.

THE UNDERSIGNED FURTHER STATES THAT HE OR SHE HAS READ THE FOREGOING ACKNOWLEDGEMENT AND KNOWS THE CONTENTS THEREOF AND SIGNS THE SAME OF HIS OR HER OWN FREE WILL.

Signature of Driver/Applicant

Date

Signature of Witness

Date

NOTE: THIS FORM WILL BE RETAINED BY THE CITY IN A SECURE FILE.