

Section I - Purpose and Scope

The City of Hagerstown is committed to providing a safe, healthful, and drug-free environment for all employees. The purpose of this policy is to comply with Federal mandates included in both the Drug Free Workplace Act of 1988 and Omnibus Transportation Employee Testing Act of 1991. Specific requirements of this policy constitute conditions of employment with the City. The City will conduct, when necessary, under the conditions described in this program, substance abuse tests to determine the presence of a prohibited drug or substance in an employee.

Section II - DEFINITIONS

- A. Drug Paraphernalia
Any material or equipment used or designed for the use in testing, packaging, storing, or introducing into the human body a controlled dangerous substance.
- B. Illegal Drug
Any drug which is not legally obtainable (e.g. marijuana, cocaine, heroin, etc.). This also includes prescribed drugs obtained illegally or used for reasons other than their legitimately prescribed purposes.
- C. Illegal Substances and Materials
Narcotics, drugs, and other substances and materials. The sale, purchase, transfer, use, or possession of which are prohibited by Federal, State, or Local law.
- D. Impairment
An employee is unable to perform work assignments and exhibits the signs and symptoms of substance abuse as indicated by lack of coordination, slurred speech, incoherent manner, unusual behavior, physical appearance, and so on. Impairment is corroborated by observations, a positive breath test for presence of alcohol, and/or a combination of these tests for the presence of drugs.
- E. Incident
Any action such as an accident or unusual behavior that could adversely affect people or property.
- F. Premises
All land, property, buildings, structures, and vehicles owned by or leased to the City.

- G. Presence of a Substance
The existence in the body or blood of the substance at levels listed below:
- Alcohol - Test level for alcohol to be 0.02 percent via breath test.
- Drugs - Any metabolite of an illegal drug found in testing is considered prima-facie evidence of drug abuse.
- H. Reasonable Suspicion
Consists of unusual behavior or conditions specifically documented by management or supervisory personnel including observations concerning appearance, behavior, speech, or body odors of the employee (see Appendix A). Anonymous tips, rumors, or an employee's general record are not sufficient grounds for requesting that an employee undergo drug/alcohol screening or searches. However, reasonable suspicion may be derived from information provided from identifiable witnesses, when used in conjunction with observations made by management/supervisory personnel.
- I. Safety-sensitive
An employee who has a substantially significant degree of responsibility for the safety of others (e.g. holders of CDL's), where impaired performance could result in injury, death, and/or property damage. Also included are those employees who are required to carry a firearm, or are directly involved in efforts to enforce narcotics laws.
- J. Unauthorized Substances and Material
Intoxicating beverages, medically authorized drugs where use is not in accordance with medically prescribed doses, and equipment and paraphernalia related to prohibited drug or substance abuse.
- K. Under the Influence
Detection in an individual's system of those levels of alcohol and/or illegal or unauthorized drugs (including "look-alikes" and synthetics that could affect a person's senses or motor functions while working).
- L. Unfit Condition
Not being able to perform work in a safe and/or customary manner.
- M. Unusual Behavior
A significant change in the behavior of an employee that deviates from their normal custom and habits. The behavior may signify emotional problems or symptoms of instability which could affect trustworthiness and reliability as it relates to performing on the job.

Section III - The Impaired Employee

If a supervisor has reasonable suspicion that an employee is impaired or in an unfit condition as evidenced by unusual behavior such as slurred speech, unsteady gait, odor of alcohol on the breath, or otherwise unable to perform their job in a safe or satisfactory manner, they, with another supervisor if possible, will take the employee to a private area to objectively complete the checklist found in Appendix A.

The following action will be taken by the supervisor:

- A. The employee will be prohibited from the performance of City functions, including operation of City equipment or vehicles, until a determination is made on impairment.
- B. The supervisor should contact the Human Resources Department immediately if possible, but not later than the next working day.
- C. If there is reason to believe that the impairment is attributable to alcohol, or illegal drugs or substances, the employee should be informed of this and ordered to submit to appropriate testing. If the employee refuses to be tested, they will be subject to the disciplinary measures included in Section VI of this policy.
- D. Escort the employee to a facility appropriate to the type of testing to be conducted. The protocol of the facility conducting the test(s) will be followed.
- C. If clinical findings indicate that an employee is impaired and unfit to work the remainder of the shift, supervision will offer to arrange transportation from the work site. The employee may contact relatives for assistance, and the employee may attempt to notify a representative of their bargaining unit. If the employee indicates they intend to drive a vehicle, they will be informed that the City will contact the appropriate Police Department.
- D. Any employee found to have violated the confidentiality provisions of this policy will be reprimanded according to established Rules and Regulations governing all employees. Any disciplinary action taken will be at the discretion of the City Administrator.

Section IV - Required Alcohol/Drug Tests

The following tests are federally mandated for employees in "safety-sensitive positions", specifically those who are required to maintain a CDL:

- A. Pre-employment--conducted post-offer, before applicants are hired, prior to

assignment involving safety-sensitive functions for the first time. Also required when an employee transfers to a safety-sensitive position (test may be waived for those employees transferring from one safety sensitive position to another in the same, or different, department);

- B. Post-accident--conducted following accidents involving drivers whose performance could have contributed to the accident (as determined by a citation for a moving traffic violation); and for all fatal accidents even though the driver may not have been cited for a moving, or other, traffic violation;
- C. Reasonable suspicion--conducted when a supervisor observes, documents, and a witness corroborates, the signs and symptoms characteristic of impairment and substance abuse;
- D. Random--conducted on a random unannounced basis prior to, during, or following performance of safety-sensitive functions (test may be waived if the employee has not performed safety-sensitive functions--the Human Resources Director and supervisor will make this "window of safety-sensitivity" determination on a case-by-case basis);
- E. Return-to-duty and follow-up--conducted when an employee who has violated the prohibited substance abuse conduct standards returns to performance of safety-sensitive duties. Follow-up tests are unannounced, and at least six (6) tests must be conducted in the first twelve (12) months following return-to-duty. Follow-up testing may be extended for up to sixty (60) months following return-to-duty.

Section V - Testing Procedures

The NIDA-5 drug test is required for all federally mandated drug-free workplace programs. The five (5) substances that may be detected in a NIDA-5 panel are Amphetamines, Cannabinoids, Cocaine, Opiates, and Phencyclidine (PCP). It is required that all NIDA-5 drug screens be sent to a laboratory which is certified by the National Institute on Drug Abuse (NIDA). The facility will follow these regulations, transporting samples, maintaining the chain-of-custody, to facilitate prompt processing. The results of the drug tests are telexed to the drug testing facility and reviewed by a Medical Review Officer (MRO) as required by NIDA. Employees may be required to submit to the alcohol and drug testing indicated for the following:

A. Reasonable suspicion -- An employee who has been observed and documented as impaired will be required to submit to a blood alcohol content breath test, as determined by an authorized facility. Should this initial test prove non-conclusive, the employee will be required to submit to a urinalysis, NIDA-5 profile.

B. Pre-employment -- The prospective employee will be required to submit to the

urinalysis, NIDA-5 profile.

C. Post-accident -- The employee will be required to submit to a breath test and urinalysis, NIDA-5 profile, following an accident where these criterion apply:

1. There is reasonable suspicion to believe they were operating in an impaired condition, and
2. The employee received a citation for a moving violation or committed a chargeable offense, or
3. The accident resulted in injuries, property damage, and/or fatalities.

D. Return-to-duty and follow-up -- An employee who has violated the prohibited substance abuse will be required to submit to a breath test for alcohol use prior to re-assignment to the safety-sensitive position. Additionally, if the suspension was mandated for illicit drug use, a NIDA-5 profile urinalysis will be required. Follow-up tests are unannounced and at least six (6) may be conducted in the first twelve (12) months following return to duty. Follow-up testing may be extended for up to sixty (60) months following return-to-duty.

E. Random -- Effective January 1, 1995, and in accordance with Federal mandates, employees who are required to maintain a CDL will be subject to random drug tests.

Section VI - Disciplinary Action

1. Reporting for work while under the influence of alcohol or illegal drugs, or drinking, or using drugs on or off City premises during working hours is grounds for disciplinary action up to, and including, termination. (See Policy 160)
2. An employee's refusal to submit to a drug and/or alcohol test shall constitute acknowledgment of guilt and is grounds for disciplinary action up to, and including, termination. Selling, distributing, or possession of alcoholic beverages or illegal drugs on City premises at any time, or selling, distributing, or possession of alcoholic beverages during working hours on or off City premises is grounds for disciplinary action up to, and including, termination.
3. Employees are obligated to notify the City of any conviction of any criminal drug statute no longer than five days after such conviction (see Appendix B).
4. All discipline matters will be adjudicated in a fair, impartial, confidential manner on a case-by-case basis.

DIRECTIONS: Check all pertinent items based on your visual observation of the employee.

Name of Employee Observed _____ Date _____

Supervisor/Observer's Name _____

Witnessed By _____

1. Walking/Standing

Normal Stumbling Staggering Swaying Holding on Unsteady
 Unable Other (please describe):

2. Speech

Normal Shouting Whispering Slurred Incoherent Slow
 Slobbering Silent

3. Demeanor

Normal Sleepy Talkative Crying Excited Paranoid
 Combative Argumentative

4. Actions

Normal Drowsy Hostile Profanity Hyperactive Irrational
 Resisting Communication Fighting/Assaultive/Combative
 Other (please describe):

5. Eyes

Normal Glassy Watery Droopy Bloodshot Closed

6. Face

Normal Flushed Pale Sweaty
 Other (please describe):

7. Appearance/Clothing

Normal Dirty Unruly Messy Partially Dressed
 Bodily excreting stains Other (please describe):

8. Breath

Alcoholic odor Faint alcoholic odor No alcoholic odor

9. Movements

Normal Fumbling Nervous Slow Hyperactive Jerky
 Other (please describe):

10. Eating/Chewing

Gum Mints Candy Other (please describe):

11. Other Observations:

APPENDIX B

Employee's Report of Conviction

In accordance with Federal mandates, as well as the City of Hagerstown Substance Abuse/Drug Testing Policy, this report must be filed within five (5) days following any conviction (including pleas of guilty or nolo contendere) of violating a criminal drug statute. Failure to file this report may lead to disciplinary action, up to and including **termination**.

Employee Name _____

Department/Division _____

Job Title _____ Date Hired _____

I hereby report that I was convicted of, or plead guilty or nolo contendere to, the following violation of a criminal drug statute:

This conviction was entered in the following court at the date indicated:

Court	Date
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Today's date is _____

I understand that within 30 days of today's date, the City will either discipline me, up to termination, and/or offer me Employee Assistance (EAP) for authorized rehabilitation of substance abuse. If offered, and accepted by me, I must satisfactorily participate in and complete the program as a condition of my continuing employment with the City.

Employee's Signature

APPENDIX C

Employee's Statement of Participation

In accordance with the Federal Drug Free Workplace Act of 1988, and the City of Hagerstown Substance Abuse/Drug Testing Policy, employees must certify to the following:

1. That they have been informed of substance abuse dangers in the workplace;
2. That the City has promulgated a substance abuse policy, informed employees of its content through training and issued copies of the policy to employees;
3. That they have been advised concerning their responsibilities in maintaining a drug-free workplace;
4. That the City does offer employee assistance (EAP) to those who require treatment for substance abuse and employees are encouraged to voluntarily utilize the EAP program **before** behavior in the workplace results in disciplinary action; and
5. The City has established disciplinary measures for employees who violate conditions of the Substance Abuse/Drug Testing Policy.

By my signature below, I hereby certify that I have reviewed and understand the Substance Abuse/Drug Testing Policy. Further, that I agree to abide by this policy as a condition of continuing employment with the City of Hagerstown.

Acknowledged and Agreed:

Employee's Signature

Print Name Here

Department/Division

Today's Date