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## **CITY OF FITCHBURG ALCOHOL AND DRUG POLICY**

### **I. GENERAL**

This section applies to all employees of the City of Fitchburg whether or not they are also subject to the requirements of the [Omnibus Transportation Employee Testing Act of 1991](#).

The City of Fitchburg has a strong commitment to its employees to provide a safe work place and to establish programs promoting high standards of employee health. Consistent with the spirit and intent of this commitment, the City of Fitchburg has established this policy regarding drug and alcohol use or abuse. Quite simply, our goal will continue to be one of establishing and maintaining a work environment that is free from the effects of alcohol and drug use.

Employees of the City of Fitchburg are visible and active members of the communities where they live and work. They are inescapably identified with the City and are expected to represent it in a responsible and creditable fashion. The vast majority of our employees reflect credit upon themselves and the City of Fitchburg which they represent.

While the City of Fitchburg has no intention of intruding into the private lives of its employees, the City does expect employees to report for work in condition to perform their duties. The City recognizes that employee off-the-job as well as on-the-job involvement with drugs and alcohol can have an impact on the work place and on our ability to accomplish our goal of an alcohol and drug-free environment.

#### **The following is the City of Fitchburg's policy:**

1. The illegal use, sale or possession of narcotics, drugs, or controlled substances while on the job or on City property is an offense warranting discharge. Any illegal substances will be turned over to the appropriate law enforcement agency.
2. Employees who are under the influence of alcohol or narcotics, drugs or controlled substances, either on the job or when reporting for work, or who possess or consume alcohol during work hours, have the potential for interfering with their own, as well as their co-workers' safe and efficient job performance. Consistent with existing City of Fitchburg practices, such conditions will be proper cause for administrative action up to and including termination of employment.

## CITY OF FITCHBURG ALCOHOL AND DRUG POLICY

### City of Fitchburg policy, continued:

3. Off-the-job illegal drug activity which could adversely affect an employee's job performance or which could jeopardize the safety of other employees, the public, or City property or equipment is proper cause for administrative or disciplinary action up to and including termination of employment as additionally provided for in the Omnibus Transportation Act of 1991. In deciding what action to take, management will take into consideration the nature of the charges, the employee's present job assignment, the employee's record with the City and other factors relative to the impact of the employee's arrest upon the conduct of City business.
4. Some of the drugs which are illegal under federal, state or local laws include, among others, marijuana, heroin, hashish, cocaine, opioids, hallucinogens and/or depressants not prescribed for current personal treatment by a licensed physician.
5. Employees are expected to follow any directions of their health care provider concerning prescription medications, and must immediately notify their supervisor if any prescription drug is likely to have an impact on job performance. In addition, notification must be given at the time of any testing or screening as to any drugs or medicine being taken.

Any employee, while on City property or during that employee's work shift, including without limitation all breaks and meal periods, who consumes or uses, or is found to have in his or her personal possession, in his or her locker or desk or other repository, alcohol or drugs, which are not medically authorized, or is found to have used or to be using such alcohol or drugs, will be suspended immediately pending further investigation. If use or possession is substantiated, disciplinary action, up to and including discharge, will be imposed.

Any employee who voluntarily requests assistance in dealing with a personal drug addition or alcohol problem may participate in the Employee Assistance Program (EAP) without jeopardizing his or her continued employment with the City of Fitchburg. If an employee chooses to notify the City or request assistance from the City regarding an alcohol or drug problem, that notice or request will not jeopardize his or her continuing employment, provided the employee stops any and all involvement with the substance being abused, and maintains adequate job performance. While the EAP is a valuable source in dealing with personal problems, participation in the program will not prevent disciplinary action for a violation of this policy.

This statement is to clarify the City's operational stance and to provide for prompt effective reaction to any alcohol or drug related situation which has or could have any impact on operations. It does not alter in any way the policy of assisting employees in securing proper treatment or extending the coverage of the health benefits plan as indicated for problem drinking, alcoholism, or other drug dependencies.

## **II. OMNIBUS TRANSPORTATION EMPLOYEE TESTING ACT OF 1991: TESTING FOR DRUGS AND ALCOHOL**

It is the policy of the City of Fitchburg to comply fully with the Rules issued by the U.S. Department of Transportation under the 1991 Omnibus Transportation Employee Testing Act dealing with limitations on alcohol and drug use by transportation workers, drug and alcohol testing of such workers and the reporting/record-keeping requirements relative to such testing. The Rules found at 49 C.F.R. s382.100 et seq. apply to all interstate and intrastate truck and motor coach operators, including but not limited to, school bus drivers and all City employees with commercial driver's licenses. (CDL's)

**The following conduct is strictly prohibited:**

1. Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions with a breath/blood alcohol content of 0.04 percent (or higher)
2. Use of alcohol within the four (4) hours prior to performing a safety-sensitive function, such as driving
3. Use of alcohol on the job:
4. Use of alcohol during the eight (8) hours following an accident or until tested
5. Possession of any medication or food containing alcohol while driving a vehicle
6. Refusal to take a required test
7. Use of controlled substances on or off duty unless a doctor has prescribed the controlled substance and the doctor has informed the employee that the substance does not adversely affect the employee's ability to operate a vehicle safely

**III. PROCEDURES-Alcohol and Drug Testing Pursuant to 49 C.F.R. s382.100 et seq.**

**A. Types of Required Tests**

**1. Pre-Placement Testing for Controlled Substances and Alcohol**

All applicants for employment in covered positions, or candidates for transfer or promotion to such positions, as well as those covered employees returning from layoff, are subject to screening for use of alcohol or controlled substances.

**All applicants who test positive for either drugs or alcohol will not be offered employment with the City of Fitchburg.**

**2. Post-Accident**

All covered employees shall be tested after accidents where there has been a citation for a moving traffic violation, or there is a fatality even if the driver is not cited for a moving traffic violation. Tests for alcohol use shall be conducted within 2 hours, but in no case more than 8 hours of the accident, while tests for controlled substances shall be conducted within 32 hours of the accident. Employees must refrain from all alcohol and controlled substance use until the test is complete. Employees are obligated to cooperate in such testing or will be deemed to have refused. It is the employee's responsibility to make him/her available for testing. Generally, the employee will be accompanied to/from the testing site by a City of Fitchburg employee/supervisor.

**3. Reasonable Suspicion**

An employee shall be tested when a trained supervisor or manager observes behavior, speech, appearance or odor that leads to a reasonable suspicion that the employee has violated Number 1-7 of Section II of the guidelines or has been or is using controlled substances without a doctor's prescription. In the case of alcohol use, the observation shall be made during, preceding or after the workday. No such limitations are placed on observations for impermissible use of controlled substances. Tests for alcohol use shall be conducted within two (2) hours, but in no case more than eight (8) hours, after the

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### Required Tests, Reasonable Suspicion continued:

observation is made. If a test cannot be administered, the driver must be removed from performing safety-sensitive duties for at least 24 hours.

#### 4. **Random**

Employees shall be tested for the use of alcohol and controlled substances on a random, unannounced basis just before, during or after performance of safety-sensitive functions for alcohol or at any time for controlled substances. Each year, the number of random alcohol tests conducted by the City must equal at least 25% of all covered employees. Random drug tests conducted by the City must equal at least 50% of all covered employees.

#### 5. **Return to Duty and Follow-Up**

An employee who has violated the prohibited alcohol or drug standards shall be tested for alcohol and/or drug use prior to his/her return to performing safety sensitive duties. Follow-up tests are unannounced and at least six (6) tests must be conducted in the first 12 months after an employee returns to duty. The City of Fitchburg agrees to bear the expense of the six (6) follow-up tests. Follow-up testing may be extended for up to 60 months following the return to duty.

### **B. Conducting Tests**

#### 1. **Alcohol**

DOT rules require breath testing using evidential breath testing (EBT) devices. Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any results less than 0.02 alcohol concentration is considered a "negative" test. If the alcohol concentration is 0.02 or greater, a confirmation test must be conducted. Refusal of an employee to complete and sign the breath alcohol testing form shall be deemed to be a refusal to test. In addition, blood alcohol testing can be used in reasonable suspicion and post-accident testing where an evidentiary breath testing device is not available or where an employee is not capable of producing adequate breath.

#### 2. **Drugs**

Drug testing is conducted by analyzing a driver's urine specimen is subdivided into two bottles labeled as primary and split. Both bottles are sent to the laboratory. Initially, only the primary specimen is opened and used for the urinalysis. The split specimen remains sealed at the laboratory. If the analysis of the primary specimen confirms the presence of illegal controlled substances, the driver has 72 hours to request that the split specimen be sent, at the driver's expense, to another DHHS certified laboratory for analysis. The driver will be reimbursed should the split specimen come back negative.

Testing is conducted using a two-stage process. First, a screening test is performed. If the test is positive for one or more drugs, a confirmation test is performed for each identified drug. Sophisticated testing requirements ensure that over-the-counter medications or preparations are not reported as positive results.

All drug tests are reviewed and interpreted by a physician designated as a Medical Review Officer (MRO) before they are reported to the employer. If the laboratory reports a positive result to the MRO, the MRO will contact the driver and conduct an interview to

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### **Conducting Tests, Drugs, continued:**

determine if there is an alternative medical explanation for the drugs found in the urine specimen. For all the drugs listed above, except PCP, there are some limited, legitimate medical uses that may explain a positive test result. If MRO determines that the drug use is legitimate, the test will be reported to the City as a negative result.

### **3. Refusal to Participate/Tampering**

Any refusal to participate in any of the types of alcohol and or drug tests authorized in this policy will be treated as indicative of a positive result.

If there is any evidence that an employee engaged in sample tampering, such conduct shall be treated as a refusal to participate in testing for purposes of imposing discipline.

### **C. Consequences of Alcohol/Drug Misuse**

1. Drivers who have any alcohol concentration (defined as 0.02 to 0.039) when tested just before, during or just after performing safety and sensitive functions must be removed from performing such duties for 24 hours, and will be sent home with pay or assigned suitable non safety sensitive work if available.
2. Drivers who engage in prohibited alcohol (at a level of 0.04 or greater) or drug conduct (that is, who test positive for alcohol or drug use) must be immediately removed from safety sensitive functions must be evaluated by a substance abuse professional and must undergo a treatment program as defined by the professional.
3. Drivers who wish to continue employment with the City of Fitchburg must be evaluated within five (5) days by a substance abuse professional and comply with any treatment recommendations to assist them with an alcohol or drug problem. Employees will be placed on non-occupational sick leave or leave without pay status during the treatment period, whichever is appropriate.
4. Drivers who have been evaluated by a substance abuse professional, who comply with any recommended treatment, who have taken a return to duty test with a result less than 0.02 and/or a urine drug test which is negative who are then subject to unannounced follow-up tests, may return to work.
5. Drivers who have returned to work under these conditions and who subsequently test positive for alcohol or drugs in accordance with this policy may be subject to discipline, up to and including termination. Any action may be subject to the grievance and arbitration procedure.

### **D. Information/Training**

1. All current and new employees will receive written information about the testing requirements and how and where they may receive assistance for alcohol or drug misuse. All employees must receive a copy of the policy and sign the Confirmation of Receipt (See page 7).

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### **Information/Training continued:**

2. All supervisory and management personnel in the Department of Public Works must attend at least two hours of training on alcohol and drug misuse symptoms and indicators used in making determinations for reasonable suspicion testing.

### **E. Record Keeping**

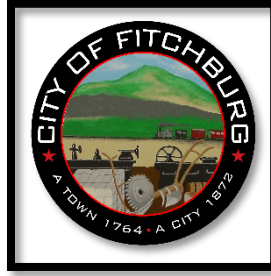
1. The City is required to keep detailed records of its alcohol and drug misuse prevention program.
2. Driver alcohol and drug testing records are confidential. Test results and other confidential information may only be released to the employer, the substance abuse professional, the MRO, and any arbitrator of a grievance filed in accordance with this policy. Any other release of this information may only be made with the driver's consent.

### **F. Pre-employment References**

1. The City must obtain and review the following information from each employer that the prospective driver worked for, in a safety sensitive position, during the previous two years; information about a test in which the employee's blood alcohol was 0.04 or greater; information about a positive drug test; and information about any refusal to participate in the alcohol and drug testing program.
2. The prospective employee must provide the former employer with a written release allowing the release of this information or he/she may not be hired.
3. If the previous employer indicates that a positive result was received, or that the employee refused to participate when selected for an alcohol or drug test, the applicant may not be appointed unless he/she has consulted with a substance abuse professional, received recommended treatment, and tested negative in a return to duty test.
4. The City of Fitchburg must provide the same information to subsequent employers of current city employees when provided with a written release.

### **G. Questions**

Questions about this policy should be referred to the employee's Division Supervisor, the Commissioner of Public Works and /or the Director of Human Resources.



City of Fitchburg, Massachusetts

**EMPLOYEE ACKNOWLEDGMENT OF RECEIPT OF POLICIES**

**THE UNDERSIGNED HEREBY ACKNOWLEDGES RECEIPT AND REVIEW OF THE FOLLOWING POLICIES AND AGREES TO ABIDE BY THESE POLICIES CONTAINED HEREIN.**

\_\_\_\_\_ **ALCOHOL AND DRUG POLICY**

\_\_\_\_\_ **HARASSMENT, DISCRIMINATION AND SEXUAL HARASSMENT POLICY**

\_\_\_\_\_  
**EMPLOYEE NAME (PRINT)**

\_\_\_\_\_  
**EMPLOYEE SIGNATURE**

\_\_\_\_\_  
**DATE**