Subject/Title

Drug- and Alcohol-Free Workplace Policy

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	Human Resources
City Manager	**Responsible Department**

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1. POLICY STATEMENT

The City of Charlotte and its departments are dedicated to providing a safe working environment. In meeting this goal and expectation it is our policy to:

- Ensure that employees are not impaired in their ability to perform assigned duties in a safe, productive and healthy manner;
- Create a workplace free from the adverse effects of drug abuse and alcohol misuse;
- Prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances;
- Encourage employees to seek professional assistance any time personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.

This Drug- and Alcohol-Free Workplace Policy strengthens and reaffirms our commitment to the safety of our customers and employees. In addition, it confirms our dedication to maintaining a drug and alcohol free workplace by enforcing a drug- and alcohol-free workplace policy that is consistent with safety, accountability and high expectations.

2. PURPOSE

The purpose of this policy is to share the City of Charlotte's philosophy and procedures for maintaining a drug- and alcohol-free workplace. It provides a process for conducting screening of job applicants and employees for illegal drugs, improper use of prescription drugs, and alcohol. In addition, it is intended to ensure worker fitness for duty and to protect our employees, passengers, and the public from the risks posed by the misuse of alcohol and use of prohibited drugs. A positive drug screening result is a termination offense. An employee who receives a positive drug screening test result will be terminated. A pre-termination hearing will also be provided.

This policy is also intended to comply with the City of Charlotte testing authority and all applicable United States Department of Transportation (USDOT) regulations 49 CFR Parts 382, 655, and 40. Part 382 requires employers to test for illegal use of controlled substances and misuse of alcohol for drivers who are required to obtain or maintain a commercial driver's license (CDL). Part 655 requires that transit employees who maintain, operate, or control the movement of transit vehicles be tested for controlled substances and alcohol. Part 40 sets standards for collection and testing of urine and breath specimen. In addition, the Federal government published 49 CFR Part 29, "The Drug-Free Workplace Act of 1988," which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the USDOT.

This policy ensures that all testing is conducted in a manner that protects the rights of employees and applicants subject to testing.

The City of Charlotte takes all necessary steps to safeguard the dignity of those being tested, and ensures adherence to all procedures pertaining to the implementation of this policy. The City adheres strictly to all standards of confidentiality and ensures that testing records and results are released only to those authorized to receive such information.

The City of Charlotte contracts the services of a Substance Abuse Professional (SAP) through its Employee Assistance Program (EAP). The contact number is 800-327-2251. Employees should ask to speak with a Care Coordinator who will make an assessment and refer the employee to a qualified SAP as mandated by the USUSDOT, when applicable.

The employee should complete the attached "Employee Notification and Acknowledgement" form upon receipt of a copy of this policy. Employees who are under the age of 18 must provide a parent/guardian signature for participation in the City's Drug- and Alcohol-Free Workplace Program as a condition of employment.

Please contact the designated Drug and Alcohol Program Manager (DAPM) in the City's Human Resources Department should you have questions about this policy.

All employees, volunteers, interns and candidates seeking employment with the City of Charlotte shall comply with the mandates set forth in this drug- and alcohol-free workplace policy.

3. APPLICABILITY

This policy applies to City of Charlotte employees and candidates for employment. Some job functions within the organization are considered USDOT-covered safety sensitive. Employees serving in designated positions that host covered safety-sensitive functions are also required to meet guidelines set by the USDOT Federal Transit Administration (FTA), the Federal Motor Carrier Safety Administration (FMCSA), and the City of Charlotte.

The segments of this policy regulated by USDOT (FTA and FMCSA) shall be the prevailing standard for those City of Charlotte safety-sensitive job functions that are applicable to those USDOT guidelines. Where FTA or FMCSA safety-sensitive is not applicable, the City of Charlotte authority of this policy prevails for all covered employees, volunteers and candidates. Prohibitions and/or requirements contained in this policy that are enacted under the non–USDOT authority of the City of Charlotte are printed in BOLD.

Under FTA, a City of Charlotte employee is performing a safety-sensitive function if:

- *Operating a revenue service vehicle, whether or not such vehicle is in revenue service.*
- *Controlling dispatch or movement of a revenue service vehicle.*
- *Maintaining a revenue service vehicle or equipment used in revenue service. Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment.*
- *Operating a non-revenue service vehicle when required to be operated by a holder of a CDL.*
- *Carrying a firearm for security purposes.*
- *Supervising, where the supervisor performs any functions listed above.*

Under FMCSA, an employee is performing a safety-sensitive function if they are:

- *Driving a commercial motor vehicle which requires the driver to have a CDL.*
- *Inspecting, servicing, or repairing any commercial motor vehicle.*
- *Waiting to be dispatched to operate a commercial motor vehicle.*
- *Performing all other functions in or upon a commercial motor vehicle.*
- *Loading or unloading a commercial motor 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 being loaded or unloaded.*
- *Performing driver requirements associated with an accident.*
- *Repairing, obtaining assistance, or remaining in attendance upon a disabled commercial motor vehicle.*

In addition to being subject to all other elements of this policy, employees who perform "safety-sensitive functions" for the City of Charlotte, as that term is defined in 49 CFR 655.4, are subject to random drug and alcohol testing and other special requirements set forth in this policy. Generally, a safety-sensitive function occurs when an employee is performing, ready to perform, or immediately available to perform such function.

Under the City of Charlotte authority, an employee is performing a safety-sensitive function if:

- The City has a compelling need on the basis of safety to ascertain on the job impairment on the part of employees who hold the position.
- Such a compelling need may arise where the duties of a position creates or are accompanied by such a great risk of injury of such magnitude to self, other persons or to property that even a momentary lapse of attention, judgment, or dexterity could have disastrous consequences.

The City of Charlotte has evaluated the actual duties performed by employees in all job classifications and determined which employees perform covered safety-sensitive functions. A list of identified safety-sensitive positions is included in this policy. Any new job classification will be assessed to determine if the new position is to be considered safety

sensitive under City of Charlotte authority or USDOT authority. City of Charlotte will review job classifications from a safety-sensitive perspective triennially.

4. PROHIBTED SUBSTANCES

Prohibited substances addressed by this policy include the following:

4.1 ILLEGALLY-USED CONTROLLED SUBSTANCES OR DRUGS

The use of any illegal drug or any substance identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration (DEA) or the U.S. Food and Drug Administration (FDA). Illegal use includes use of any illegal drug, misuse of legally-prescribed drugs not prescribed to the employee, and use of illegally-obtained prescription drugs. Covered employees may be tested for these prohibited drugs anytime they are on duty.

Under 49 CFR 655.21, all safety-sensitive employees will be tested for prohibited drugs and drug metabolites in the following circumstances: pre-employment, post-accident, reasonable suspicion, random and return-to-duty/follow-up. The following drugs must be tested for in each urine specimen: marijuana; cocaine; amphetamines, including ecstasy; opiates; and phencyclidine. Illegal consumption of these products is prohibited at all times.

City of Charlotte employees must be tested for marijuana, cocaine, amphetamines, opiates, and phencyclidine. City of Charlotte police and fire safety-sensitive employees under the City's authority must be tested for cocaine, amphetamines, barbiturates, benzodiazepine, marijuana, opiates, phencyclidine, propoxyphene and methadone.

4.2 LEGAL DRUGS

The appropriate use of legally-prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functions, motor skills, or judgment may be adversely affected must be reported to supervisory personnel before performing safety-sensitive work-related duties. An employee using over-the-counter drugs that may adversely affect his/her ability to perform safety-sensitive duties is strongly urged to seek and obtain medical advice prior to using.

A legally-prescribed drug means that an employee has an individual prescription or other written approval from a physician for the use of a drug in the course of medical treatment. The misuse or abuse of legal drugs to include drugs prescribed to someone else while performing City of Charlotte business is prohibited. For USDOT drug testing, if the MRO determines that an employee has a legitimate medical reason for the presence of a prohibited drug in their urine specimen, the Medical Review Officer (MRO) will report the test result as negative to the City. However, the MRO may also medically disqualify an employee from performing safety-sensitive duties because of medication use. For further information, see 49 CFR 40.135(d).

The use of medical marijuana or legalized marijuana from another State is considered a violation of this policy.

4.3 ALCOHOL

The consumption/use of beverages containing alcohol or alcohol-infused substances including any medication, food, candy, or any other product such that alcohol is present in the body while performing a safety-sensitive function or any City of Charlotte business is prohibited.

5. PROHIBITED CONDUCT

5.1 MANUFACTURE, TRAFFICKING, POSSESSION, AND USE

Pursuant to the Drug-Free Workplace Act of 1988, all City of Charlotte-covered employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances at all times. An employee who violates this provision will be terminated. A pre-termination hearing will also be provided. Law enforcement will be notified, as appropriate, where criminal activity is suspected.

5.2 INTOXICATION

Any City of Charlotte employee covered under this policy who is reasonably suspected of being intoxicated, impaired, or not fit for duty shall be immediately removed from safety-sensitive duties pending an investigation and verification of condition. **An employee who violates an illegal drug provision will be terminated. A pre-termination hearing will also be provided.**

An employee who violates an alcohol provision may be subject to termination. In the event termination is recommended, a pre-termination hearing will be provided. Law enforcement will be notified, as appropriate, where criminal activity is suspected. A drug or alcohol test is considered positive if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.

5.3 ALCOHOL AND DRUG USE

Under 49 CFR 655.31, covered USDOT FTA-designated safety-sensitive employees will be tested for drugs and/or alcohol in the following circumstances: post-accident, reasonable suspicion, random, and return-to-duty/follow-up. All safety-sensitive applicants and transfers into safety-sensitive positions will also be pre-employment tested for drugs. In addition, City of Charlotte non safety-sensitive employees subject to a non–USDOT post-accident or reasonable suspicion test will be tested.

No employee shall report for work or remain on duty while having an alcohol concentration of 0.04 or greater, or above 0.00 for CMPD personnel. For covered USDOT safety-sensitive employees, a breath alcohol concentration of 0.04 or greater shall be prohibited to perform any safety-sensitive function.

Section 655.31(b) "Each employer shall prohibit a covered employee, while having an alcohol concentration of 0.04 or greater, from performing or continuing to perform a safety-sensitive function."

City of Charlotte employees, to include designated USDOT safety-sensitive employees, are prohibited from alcohol consumption while on duty, in uniform, while performing safety-sensitive functions, or just before or just after performing a safety-sensitive function. No covered safety-sensitive employee shall consume alcohol within four (4) hours of reporting for duty, or during the hours they are on call.

All employees, to include USDOT (FTA and FMCSA) safety-sensitive employees, are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in 49 CFR Part 40, as amended. For the covered safety-sensitive employee, alcohol consumption is prohibited during on-call periods. The employee must acknowledge the use of alcohol and the inability to perform his/her safety sensitive function anytime they are called to duty to perform a safety-sensitive function. Any covered safety-sensitive employee who acknowledges the consumption of alcohol but indicates that they are fit to perform their safety-sensitive function must first take an alcohol test showing an alcohol concentration of less than 0.02.

Any City of Charlotte employee, to include designated FTA safety-sensitive employees, with a confirmatory breath alcohol test result of 0.02 or greater but less than 0.04 will be relieved from performing safety-sensitive functions for

eight (8) hours or until retesting below 0.02, whichever occurs first. The employee will be subject to discipline. A confirmatory breath alcohol test result of 0.04 or greater will be considered a positive alcohol test result and in violation of this policy and the requirements in 49 CFR Part 655 for safety-sensitive employees.

Any City of Charlotte employee designated FMCSA safety-sensitive with a confirmatory breath alcohol test result of 0.02 or greater but less than 0.04 will be relieved from performing safety-sensitive functions for at least 24 hours and **subject to discipline**.

5.4 COMPLIANCE WITH TESTING REQUIREMENTS

All City of Charlotte safety-sensitive employees will be subject to urine drug testing as a condition of employment. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty immediately and subject to termination. *Observed collections will be conducted as outlined under Section 6.1 of this policy and in compliance with 49 CFR 40.67.* A medical review officer (MRO)-verified adulterated or substituted drug test result will result in termination and the covered employee shall be provided contact information for a qualified SAP.

All employees and applicants must follow the collection procedures outlined below for specimen identification.

A. At the collection site and prior to providing a specimen, the applicant/employee must provide a photo identification (such as a valid driver's license, work ID, passport, or other)
.
B. Applicant/employee must present to the collection site representative:

   1. An appointment form (Drug Test Authorization Form); and
   2. The chain of custody form. The collection site representative must complete the chain of custody form.

C. Applicant/employee must initial the seals on the specimen containers after the seals have been applied to the specimen containers.

D. *All employees are required to go for a drug/alcohol testing immediately upon notification. Any employee, who fails to go to the testing center (except for pre-employment testing) within a reasonable time, as determined by City of Charlotte, will be subject to termination.* **All employees who refuse to go for a drug test will be terminated. A pre-termination hearing will also be provided.** *Employees cited for alcohol use are subject to termination pending a pre-termination hearing.*

The following additional circumstances constitute a test refusal and verified positive by an applicant/employee:

- *Failing to remain at the testing site until the testing process is complete (for pre-employment testing, the testing process does not begin until the donor receives the specimen collection cup for the drug test;*
- *Failing to provide a urine and/or breath specimen for any USDOT required drug and/or alcohol test (for pre-employment testing, the testing process does not begin until the donor receives the specimen collection cup for the drug test or the mouthpiece is selected for the breath alcohol test);*
- *Failing to sign the certification at Step 2 of the Alcohol Test Form;*
- *Failing to allow a directly observed or monitored collection in a drug test, failing to permit the observation or monitoring of the employee provision of a specimen;*
- *Failing to follow instructions under direct observation related to raising cloths above waist, lowering clothing and under garments, turning around or related actions;*
- *Failing to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;*
- *Failing to take a second test that City of Charlotte or the collector has directed the employee to take;*
- *Failing to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process of "shy bladder";*

- *Failing to cooperate with any part of the testing process (e.g., refusing to empty pockets when so directed by the collector, behaving in a confrontational way that disrupts the collection process);*
- *Possessing or wearing a prosthetic or other device that could be used to interfere with a collection process;*
- *Admitting adulteration/substitution to the collector or MRO and/or a MRO-verified adulterated or substituted drug test result.*

Testing Criteria:

- Drug testing can be performed any time a safety-sensitive employee is on duty.
- Reasonable suspicion, random and follow-up alcohol testing can only be performed when a safety-sensitive employee is actually performing a safety-sensitive duty, just before, or just after the performance of a safety-sensitive duty.
- Under City of Charlotte authority and USDOT, reasonable suspicion testing can only be performed by authorized officials when articulable behaviors and characteristics are documented and suggest probable drug and/or alcohol use.

5.5 VOLUNTARY TREATMENT OPPORTUNITY

All City of Charlotte employees are encouraged to make use of the available resources for treatment for alcohol misuse and illegal drug use problems. Under the City's policy, any employee who voluntarily discloses a substance abuse problem before a disciplinary matter develops and/or before notification for a required test, will be subject to return-to-duty and follow-up testing under City of Charlotte authority (using non-USDOT testing paperwork). The purpose of the return-to-duty testing is to provide a degree of assurance that the employee is drug and alcohol free, i.e., the employee is able to return to work without undue concern of continued drug abuse or alcohol misuse.

The employee must be referred to the City's EAP and evaluated by a Substance Abuse Counselor and pass a return-to-duty test. A return-to-duty test will include both drug and alcohol testing as well as meet other return-to-duty requirements. The employee must have a verified negative drug test result and a breath alcohol test result of less than 0.02 before returning to his/her safety-sensitive functions. Once returned and as a condition of ongoing employment, the employee must follow the recommended frequency and duration of follow-up testing from the EAP/substance abuse counselor.

Any City employee who refuses or fails to comply with requirements for treatment, after care, or return-to-duty testing will be subject to termination pending the outcome of a pre-termination hearing. The cost of any treatment or rehabilitation services will be paid for by the employee directly or by their insurance provider. Employees will be allowed to take accumulated sick leave and vacation leave to participate in the prescribed rehabilitation program. Any follow-up testing will be apart and in addition to participation in the random testing program.

5.6 NOTIFYING THE CITY OF CRIMINAL DRUG CONVICTIONS

Under the Drug Free Workplace Act, all employees are required to notify the City of Charlotte of any criminal drug statute conviction, for a violation occurring in the workplace, within five (5) days after such conviction. Failure to comply with this provision may result in termination. The City of Charlotte will notify USDOT of any covered employee criminal drug statute conviction within ten (10) days of notification of the conviction.

5.7 PROPER APPLICATION OF THE POLICY

The City of Charlotte is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. **Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action up to and including termination of employment.**

5.8 CONFIDENTIALITY

The City of Charlotte affirms the need to protect individual dignity, privacy and confidentiality throughout the testing process. Laboratory reports or test results shall not appear in an employee's general personnel file. Information of this nature will be contained in a separate confidential file that will be kept under the control of the DAPM. The reports or test results may only be disclosed without the employee's consent when:

- The information is compelled by law or by judicial or administrative process arising from the results of a drug or alcohol test under CFR 49 Part 655; and/or
- The results have been placed at issue in a formal dispute between the employee and employer.

In all other cases the employee must sign a separate release every time substance testing information is to be disclosed. The employee must sign releases anytime information is to be released to the employee, subsequent employers, and to any other third party designated by the employee.

All records will be maintained in accordance with 49 CFR Parts 40 and 655.

6. TESTING PROCEDURES

The City of Charlotte contracts with an outside vendor to provide certified U.S. Department of Health and Human Services (DHHS) collection sites and to monitor each site for compliance with USDOT standards. The vendor provides services relative to the Maintenance of a Drug and Alcohol-Free Workplace Policy including the provision of the MRO services. The vendor names the MRO, who shall be a certified medical doctor.

Urine drug testing and breath testing for alcohol may be conducted under the City of Charlotte's authority, using non-Federal forms, or as required by federal regulations.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the DHHS. All testing will be conducted consistent with the procedures in 49 CFR Part 40, as amended. Copies of 49 CFR Part 40 is available for review by employees by contacting the DAPM in the City's Human Resources Department. An electronic version of 49 CFR Part 40 is also available for download at the Office of Drug and Alcohol Policy and Compliance website (http://www.USDOT.gov/odapc/part40).

The collection procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result. USDOT regulations only permit urine testing for the following five (5) drugs: marijuana, cocaine, opiates, amphetamines, and phencyclidine. Other City departments may test for an extended panel of drugs. Urine specimens will be collected using the split specimen collection method as described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a Federal Drug Testing Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. An initial drug screen will be conducted on the primary urine specimen.

For those specimens with non-negative initial drug screen results, confirmatory Gas Chromatography/ Mass Spectrometry (GC/MS) testing will be performed. The test will be considered positive if the amounts present are above the minimum threshold established in 49 CFR 40.87.

All drug testing laboratory results will only be reported to a MRO. A MRO is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test. Before verifying that an employee has a positive test result, the MRO is responsible for contacting any such employee, on a direct and confidential basis, to determine whether the employee wishes to discuss the test or present a legitimate medical explanation for the positive test result.

An employee who has a MRO-verified positive for an illegal drug use will be terminated. A City of Charlotte covered USDOT safety-sensitive employee who test positive for alcohol or who refuses a drug or alcohol test will be removed

from any safety-sensitive function and terminated. A pre-termination hearing will also be provided and the employee will be referred to a SAP.

The MRO will subsequently review the employee's medical history/medical records and conduct a verification interview to determine whether there is a legitimate medical explanation for a positive, substituted or adulterated laboratory result. If no legitimate medical explanation exists to explain the test result, the test will be verified positive, and/or refusal to test because of adulterated or substitution and reported to the designated employer representative (DER).

If the MRO determines that an employee has a legitimate explanation for a positive test result, the MRO will report the test result as negative. The MRO's designee may make the initial contact with the employee to set-up an appointment to speak with the MRO, but only the MRO is permitted to discuss the test result with the employee. If, after reasonable efforts, the MRO or MRO representative and the City of Charlotte are unable to reach the employee directly, the MRO may render a final determination of positive without review.

An employee terminated based on a confirmed positive/split specimen may appeal his/her termination directly to the Human Resources Director. The appeal must be in writing and submitted within ten (10) days from the date of termination or the date the employee is aware of the termination. (Note: Since the MRO will have determined a test positive, adulterated, or substituted, the Human Resources Department will not typically be in the position of disputing the findings of the MRO).

Employees terminated based on a finding of obstruction will not be considered for future employment with the City of Charlotte prior to two (2) years.

6.1 OBSERVED COLLECTIONS

Consistent with the requirements in 49 CFR 40.67, an immediate urine specimen collection under direct observation (by a person of the same gender) with no advance notice will be conducted if any of the following situations occur:

- *The DHHS-certified laboratory reports to the MRO that a specimen is invalid and the MRO reports to the City that there was no adequate medical explanation for the results;*
- *The MRO reports to the City that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;*
- *The City shall direct an employee to provide a urine specimen under direct observation for USDOT return-to-duty and follow-up drug tests;*
- *The collector must immediately conduct a collection under direct observation if they are directed by the City to do so; or*
- *The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen; or*
- *The temperature of the original specimen provided was outside the acceptable temperature range of 90-100 degrees; or*
- *The original specimen appeared to have been tampered with; or*
- *The MRO directs the City to conduct a second specimen collection under direct observation because the creatinine concentration of an applicant/employee initial specimen provided was equal to or greater than 2 mg/dL, but less than or equal to 5mg/dL.*

6.2 BREATH-ALCOHOL TESTING

Breath-alcohol testing will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA) approved evidential breath-testing device (EBT) operated by a trained breath-alcohol technician (BAT). All breath-alcohol test results will be reported only by a MRO or BAT. If the initial test indicates a breath-alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test.

A covered safety-sensitive employee who has a confirmatory breath alcohol test result of 0.02 or greater will be immediately removed from safety-sensitive duties until the breath-alcohol concentration measures less than 0.02.

Under City of Charlotte authority, a safety-sensitive employee with a confirmatory breath alcohol test result with a concentration of 0.02 or greater, but less than 0.04 may also be suspended for five (5) days without pay, placed on six (6) month probation, and given a mandatory EAP referral.

A confirmatory breath alcohol test result of 0.04 or greater will be considered a positive alcohol test result and a violation of this policy and federal requirements in 49 CFR Part 655 (FTA-covered).

Any USDOT (FTA) safety-sensitive employee with a confirmed positive drug test result, confirmatory breath alcohol test result of 0.04 or greater, or refusal to submit to a drug or alcohol test, will be immediately removed from their safety-sensitive position**,** terminated and referred to a SAP for assessment and referral in accordance with 49 CFR Part 40. A pre-termination hearing will also be provided.

Non-safety-sensitive employees are exempt from USDOT regulations included in this policy, but are governed under the City of Charlotte's own policy and testing authority.

6.3 EMPLOYEE REQUESTED TESTING

Any employee, including USDOT (FTA and FMCSA) safety-sensitive employees, who question a positive adulterated or substituted test result of a required drug test identified in this policy may request that the split sample be tested. This test must be conducted at a different DHHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the original sample. If an employee requests split sample testing, the split sample test will occur regardless of up-front payment, but the City of Charlotte reserves the right to seek reimbursement from the employee unless the result of the split sample testing invalidates the result of the original test.

The employee's request for a split sample test must be made to the MRO within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee. Non-safety-sensitive employees are exempt under USDOT regulations, but the City's own policy authority regulates adherence.

6.4 PRE-EMPLOYMENT TESTING

All applicants to include candidates for USDOT (FTA and FMCSA) safety-sensitive positions or transfers from non-safety sensitive to safety-sensitive positions shall undergo urine drug testing (following procedures set forth in 49 CFR 655.41 and 49 CFR Part 40, Subparts C-I). A negative result must be received by the City prior to the applicant /employee beginning covered duty. If the pre-employment test is canceled for any reason, it must be retaken until a negative result is received. Under the City's own authority, receipt by the City of a verified negative drug test is required as part of a pre-employment drug test prior to hire and before performance of a non-safety-sensitive function or safety sensitive function not regulated by USDOT.

A verified positive pre-employment drug test will disqualify an applicant for employment and they will be referred to a SAP. Any safety-sensitive applicant who undergoes a pre-employment test, but is not actually assigned safety-sensitive duties, and is not in the random selection pool, within 90 days from the date of the test, will have to retest with negative test results prior to the applicant's first performance of safety-sensitive duties.

Under the City's authority, a non-USDOT pre-employment/pre-transfer test will also be performed any time an employee's status changes from an inactive status in a safety-sensitive position to an active status in a safety-sensitive position. All safety-sensitive employees who have not performed a safety-sensitive function for 90 or more consecutive calendar days, regardless of the reason, and have been out of the random testing pool during that time period, must successfully pass a pre-employment drug test prior to performance of any safety-sensitive function.

An applicant who does not pass the drug test as required will not be considered for employment for a two-year (2) period following the date of the test. *An applicant/employee who has previously failed or refused a USDOT test must show the City evidence of having completed the referral and treatment/education process set forth by the USDOT at*

49 CFR Part 40, Subpart O. USDOT return-to-duty and follow-up testing will then be carried out as discussed in section 6.8 of this policy (return-to-duty and follow-up testing).

Results of split specimen testing:

a. *Reconfirmed. Reconfirmed positive is reported as such. Reconfirmed substituted or adulterated is reported as a final result "refusal to test," which is treated as a reconfirmed positive.*
b. *Failed to reconfirm: Drug(s)/drug metabolite(s) not detected. Both tests canceled.*
c. *Failed to reconfirm: Adulteration or Substitution Criteria not met. Both tests canceled.*
d. *Failed to reconfirm: Specimen not Available for Testing. Both tests canceled and employee is directed to give another, immediate collection under direct observation, with no notice given to the employee.*

Note: Any safety-sensitive employee or non-safety-sensitive candidate/employee that has a confirmed positive pre-employment drug test will not be hired. ***A positive drug test will result in termination. A pre-termination hearing will also be provided.***

6.5 REASONABLE SUSPICION

A reasonable suspicion referral for testing will be made on the basis of specific, contemporaneous, (happening at that moment), articulable observations concerning the appearance, behavior, speech, or body odor (49 CFR 655.43). All employees to include those designated USDOT (FTA and FMCSA) safety-sensitive employees may be subject to a fitness-for-duty evaluation, and urine and/or breath testing when there are reasons to believe that drug or alcohol misuse is adversely affecting his/her job performance**.**

Reasonable suspicion referrals must be made by a supervisor or company official who is trained to detect the physical signs and symptoms, facts, circumstances, physical evidence, or patterns of performance and/or behaviors associated with drug use and/or alcohol misuse. If a supervisor, trained to identify the signs and symptoms of drug and alcohol misuse, reasonably concludes that objective facts may indicate drug use or alcohol misuse, this will be sufficient justification for testing.

A reasonable suspicion test for drugs can be conducted any time a safety-sensitive employee is on duty. A reasonable suspicion test for alcohol can only be conducted when the observations are made during, before, or just after the performance of safety-sensitive functions.

§655.43 Reasonable suspicion testing

(a) An employer shall conduct a drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse.
(b) An employer's determination that reasonable suspicion exists shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee. A supervisor or other company official who is trained in detecting the signs and symptoms of drug use and alcohol misuse must make the required observations.

(c) Alcohol testing is authorized under this section only if the observations required by paragraph

(b) of this section are made during, just preceding, or just after the period of the workday that the covered employee is required to be in compliance with this part. An employer may direct a covered employee to undergo reasonable suspicion testing for alcohol only while the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions.

(d) If an alcohol test required by this section is not administered within two hours following the determination under paragraph (b) of this section, the employer shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the determination under paragraph (b) of this section, the employer shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.

6.6 POST-ACCIDENT TESTING

All FTA safety-sensitive employees will be required to undergo urine and breath testing if they are involved in an FTA accident with a public transportation vehicle (regardless of whether or not the vehicle is in revenue service). An accident defined by the FTA is an occurrence associated with the operation of a vehicle, and

- An individual dies (fatality);
- An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; OR
- Public transportation vehicle involved is a bus, electric bus, van or automobile; one or more vehicles including non-FTA-funded vehicles incurs disabling damage as a result of the accident and the vehicle or vehicles are towed from the scene by a tow truck or other vehicle; OR
- Public transportation vehicle involved is a rail car, trolley car, trolley bus, or vessel, and the Public transportation vehicle is removed from operations.

The FMCSA mandates that drug and alcohol tests must be conducted on any surviving drivers or other employee whose performance could have contributed to the accident if:

- The accident involved a fatality; OR
- The driver receives a citation under State or local law for a moving traffic violation arising from the accident; AND
- Any involved vehicle requires towing from the scene; OR
- Any person involved requires medical treatment away from the scene of the accident.

In the case of a fatality, each surviving safety-sensitive employee operating the vehicle at the time of the accident must be tested as well as any other safety-sensitive employees not on the vehicle, whose performance could have contributed to the accident (based upon the best information available at that time).

In a non-fatal accident, all safety-sensitive employees operating the vehicle at the time of the accident will be tested unless it is determined the employee's performance can be completely discounted as a contributing factor to the accident. Any other safety-sensitive employee whose performance could have contributed to the accident will also be tested. The decision regarding being "completely discounted" will be made by the supervisor on the scene based upon the best information available at the time of the incident. An accident is defined (§655.4) as an occurrence associated with the operation of a vehicle in which:

- An individual dies; OR
- An individual suffers a bodily injury and immediately receives medical treatment away from the scene of an accident;
- The mass transit vehicle is a bus, electric bus, van, or automobile in which one or more: OR
  vehicles incurs disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. Look-alike historical trolley buses that operate on surface roads without a fixed guideway are considered buses for purposes of this definition. "Disabling Damage," means damage that precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated, but would have been further damaged if so operated.
- The mass transit vehicle involved is a railcar, trolley car, trolley bus (on a fixed guideway or overhead wire), or vessel and is removed from operation.

Whenever there is a loss of human life, each surviving safety-sensitive employee operating the mass transit vehicle at the time of the accident must be tested. Safety-sensitive employees not on the vehicle (e.g., maintenance personnel) whose performance could have contributed to the accident (as determined by the transit agency using the best information available at the time of the accident) must also be tested.

Following nonfatal accidents, employers shall test each safety-sensitive employee operating the mass transit vehicle at the time of the accident unless the employer determines that the covered employee's performance can be completely discounted as a contributing

factor to the accident. The employer shall test any other safety-sensitive employee whose performance could have contributed to the accident. The decision must be made using the best information available at the time.

Non-fatal accidents involving a bus, electric bus, van, or automobile must meet the definition of an accident for these types of vehicles to be considered an accident. For these types of vehicles, "removal from operation" is not a criterion for a post-accident test. Thus, employers that take a vehicle out of service without meeting the other criteria (i.e., disabling damage or bodily injury that requires immediate medical treatment away from the scene) may not conduct a post –accident test under FTA authority. The portion of the definition that addresses "removal from operation" is the portion that deals only with vehicles on fixed guideways (i.e., rail car, trolley car, trolley bus) or vessels. The definition for these vehicles does not include disabling damage.

An "occurrence associated with the operation of a vehicle" means that the accident or incident must be directly related to the manner in which the driver applies the brake, accelerates, or steers the vehicle. Operation of a vehicle does not include operation of the lift. An accident could be the result of a collision with another vehicle or pedestrian or could be associated with an incident that occurs on the vehicle without any contact with another vehicle (i.e., a passenger falls on the bus due to the manner in which the vehicle was operated).

Vehicles covered include a bus, electric bus, van, automobile, rail car, trolley car, trolley bus, or vessel that is used for mass transportation or for ancillary services. Ancillary services include non-revenue service commercial motor vehicles and vehicles used by armed security personnel. Thus, accidents involving supervisor or general manager vehicles that are not used to transport passengers do not meet this definition and do not justify an FTA post-accident test.

Under the City of Charlotte authority, any employee, to include safety-sensitive supervisors and non-safety-sensitive employees, involved in a vehicular or non-vehicular incident may be required to take a non-USDOT post-accident drug and alcohol test following an accident/incident.

Following a covered accident**,** the safety-sensitive employee will be tested as soon as possible. If the alcohol test is not administered within two (2) hours of the accident, the supervisor must prepare and maintain on file a "Post Accident" form stating the reason the test was not promptly administered. If an alcohol test was not administered within eight (8) hours following the accident, all attempts to administer the test must cease and the supervisor must document the reason on the "Post Accident" form.

All employees, to include USDOT (FTA and FMCSA) safety-sensitive employees, must be tested within 32 hours of the accident for drug testing.

Any employee, to include USDOT safety-sensitive employees involved in an accident must refrain from alcohol use for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test. Any employee, to include a designated safety-sensitive employee, who does not remain available for testing or leaves the scene of the accident without a justifiable explanation prior to submission to drug and alcohol testing, will be considered to have refused the test and the employee will be terminated. A pre-termination hearing will also be provided. Employees tested under this provision will include not only the operator, but also any other covered employee whose performance could have contributed to the accident.

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a safety-sensitive employee from leaving the scene of an accident for a period necessary to obtain assistance in responding to the accident or to obtain the necessary emergency medical care. However, any employee under the above circumstance who fails to remain readily available for drug or alcohol testing (including notifying a supervisor of his/her location) or who otherwise leaves the scene of the accident without appropriate authorization prior to drug and alcohol testing, will be considered to have refused the test.

If the City is unable to perform a USDOT or non-USDOT drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), the City may use drug and alcohol post-accident test results administered by State and local law enforcement officials (49 CFR Part 40). The State and local law enforcement officials must have independent authority for the test and the City must obtain the results in conformance with State and local law.

6.7 RANDOM TESTING

The USDOT FTA regulation (49 CFR 655.45) and the City of Charlotte authority require random unannounced testing for drugs and alcohol for all safety-sensitive employees. The selection of safety-sensitive employees for random drug and alcohol testing will be made using a scientifically-valid method that ensures each covered employee will have an equal chance of being selected each time selections are made. The random tests will be unannounced, unpredictable and spread throughout the year. Based upon the City's operations, random testing is conducted on all days and hours during which safety-sensitive functions are performed.

All USDOT (FTA and FMCSA), as well as City-designated safety-sensitive employees, can be tested at any time for drugs during an employee's shift (i.e. beginning, middle, and end). Random alcohol testing may only be performed just before, during, or just after the actual performance of safety-sensitive functions. Supervisors are required to proceed and transport employees immediately and directly to the collection site upon notification of their random selection. **The failure to proceed immediately for testing or taking unreasonable time to report for testing may result in disciplinary action, up to and including termination.**

All USDOT-regulated safety-sensitive employees with a MRO-verified positive or non-negative on a drug or alcohol test will be immediately removed from their safety-sensitive position**, subject to termination** and referred to a SAP, in accordance with 49 CFR 655.

6.8 RETURN TO DUTY AND FOLLOW-UP TESTING

An employee returning to duty after a positive drug and/or alcohol test result or refusal shall be required to undergo and pass a return to duty test. All return-to-duty tests shall be conducted under direct observation. Before allowing an applicant or covered employee who has tested positive for drugs to resume safety sensitive functions, the City will ensure that the individual has completed a qualified Substance Abuse Professional's treatment/education requirements.

A return to duty breath alcohol test result of 0.02 or greater will be considered the second alcohol violation test within a five-year period. The employee will be terminated. A pre-termination hearing will also be provided.

An employee who refuses a return-to-duty or follow-up test **will be terminated. A pre-termination hearing will also be provided.** Once an employee who is subject to the return-to-duty requirements above resumes the performance of safety-sensitive functions, the City will ensure that they are subject to frequent unannounced follow-up drug and/or alcohol testing, as prescribed by the SAP.

Follow-up testing will include at least six (6) follow-up test conducted during the employee's first twelve (12) months of resumed duty, and may extend for up to a total of 60 months. The type (drug and/or alcohol), frequency and duration of testing will be set at the sole discretion of the SAP. This testing is in addition to any required random, reasonable suspicion, post-accident and pre-employment testing. Any follow-up breath-alcohol test result of 0.02 or greater will result in termination. A pre-termination hearing will also be provided.

For any USDOT (FTA) safety-sensitive employee, a confirmatory breath alcohol test result of 0.04 or greater will be considered a positive alcohol test result and in violation of this policy and the requirements in 49 CFR Part 655 for safety-sensitive employees, which includes a mandatory SAP referral. SAP referrals

are not permitted for results of less than 0.02, or for results of 0.02 to less than 0.04.

Note: Reasonable suspicion, random, and follow-up alcohol testing shall be conducted while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions.

6.9 REASONABLE ACCOMODATION TESTING (ADA)

A covered non-USDOT safety-sensitive employee subject to drug testing under the City of Charlotte authority may have access to a reasonable accommodation drug test based on a disability under the Americans Disabilities Act (ADA), as amended by the ADA Amendments Acts of 2008 (ADAAA) .

The determination of whether someone has a disability requires an individualized assessment. The ADA defines "disability" as:

1. a physical or mental impairment that substantially limits one or more major life activities (sometimes referred to in the regulations as an "actual disability"); or
2. a record of a physical or mental impairment that substantially limits a major life activity ("record of"); or
3. when a covered entity takes an action prohibited by the ADA because of an actual or perceived impairment that is not both transitory and minor ("regarded as"). "Regarded as" definition of disability only is not entitled to a reasonable accommodation.

A City of Charlotte designated safety-sensitive employee requiring a reasonable accommodation may be tested by oral fluid as an alternative. Oral fluid testing is prohibited for USDOT-designated (FTA and FMCSA) safety-sensitive employees. The shy bladder protocol remains applicable to USDOT-designated safety-sensitive employees and those that do not meet the disability standard.

7. PRESCRIPTION AND OVER-THE-COUNTER MEDICATION

7.1 PRESCRIBED DRUGS

In the interest of protecting employees and the general public, any City of Charlotte employee designated USDOT safety-sensitive must make sure that any prescribed drug or any combination of drugs being taken will not adversely impact their job performance. It is the employee's responsibility to consult with medical professionals to ensure that the employee's job duties will not be adversely impacted by prescribed medication. Any employee under the influence of prescribed medication that may impact safety-sensitive duties must notify their immediate supervisor in advance of performing safety-sensitive duties.

7.2 OVER-THE-COUNTER MEDICATIONS

It is the responsibility of the safety-sensitive employee, when selecting an over-the-counter medication, to read all warning labels before selecting it for use while in a working status. Medications whose labels indicate they may affect mental functioning, motor skills or judgment should require significant consideration before use.

The advice of a pharmacist, if available at the purchase site, may be helpful in making a selection appropriate to the employee's job duties. If no alternate medication is available for the condition, employees should seek professional assistance from their pharmacist or physician. Ultimately, the employee may be the best judge of how a substance is impacting him/her. As such, the employee has the responsibility to refrain from using any over-the-counter medication that causes performance-altering side effects, whether or not the label warns of them.

Although safety-sensitive employees are not required to provide written notice to their supervisor when using over-the-counter medications, it is highly recommended that the employee confer with his/her physician regarding the possibility of adverse side effects that may impair job performance.

7.3 SIDE EFFECTS

Employees who experience medication side effects or do not feel fit for duty, regardless of medications or previous approvals, must consult their personal physician and immediately refrain from performing hazardous activities, including all safety-sensitive functions. If the use of a medication could compromise the safety of the employee, fellow employees or the public, it is the employee's responsibility to use appropriate personnel procedures (e.g., call in sick, use leave, request change of duty, notify supervisor, etc.) to avoid unsafe workplace practices.

The illegal or unauthorized use of prescription drugs is prohibited. It is a violation of our drug-free workplace policy to intentionally misuse and/or abuse prescription medications, including taken a medicine prescribed to another person, such as a family member. Appropriate disciplinary action up to and including termination will be taken if an employee tests positive for a prescription drug for which the employee does not have a current, valid prescription.

7.4 HOW TO REPORT MEDICATION

To report a medication as an option, the employee's licensed medical practitioner may read and sign the Medication Approval Form. Employees may take a medication approval form with them when they visit their doctor. This form may be returned to their department's DER within human resources prior to resuming safety-sensitive functions.

Employees have the responsibility to explain their job duties to their medical practitioner and ensure that the use of prescribed medication will not pose a safety risk to themselves, co-workers, or the general public. It is recommended that the employee provide the medical professional with a copy of their current job description.

If the employee's use of a prescription or over-the-counter drug endangers the employee, co-workers or the public, or has contributed to an accident, the employee may be subject to discipline, up to and including termination, under City policy.

7.5 CONFIDENTIALITY OF RECORDS AND VERIFICATION

Medication approval forms will be kept in a confidential medical file under the control of the DAPM. If an employee's personal physician and the MRO differ regarding use of a medication, the DAPM will work with the employee's medical practitioner and the MRO to resolve the disagreement.

8. EMPLOYEE ASSISTANCE PROGRAM

8.1 GENERAL

The City's EAP offers help for employees to improve or maintain job performance by assisting with support to resolve personal problems. A component of the program is to help employees who may be experiencing some type of personal problem related to drug and/or alcohol addiction.

9. INFORMATION DISCLOSURE

9.1 PRE-EMPLOYMENT

To be considered for employment, transfer or promotion, all applicants who previously failed a pre- employment drug test are required to give consent to the City of Charlotte for a background check of their previous USDOT-covered employer(s) over the past two (2) years as defined by 49 CFR 40.25. Information requested will include:

- Alcohol test results of 0.04 or higher alcohol concentration;

- Verified positive drug tests;
- Refusals to be tested (including verified adulterated or substituted drug test results);
- Other violations of USDOT agency drug and alcohol testing regulations;
- Information obtained from previous employers of a drug and alcohol rule violation; and
- With respect to any employee who violated a USDOT drug and alcohol regulation, documentation of the employee's successful completion of USDOT return-to-duty requirements (including follow-up tests, treatment plans)

Hiring manager(s) responsible for posting and processing employees for safety-sensitive positions must ensure form PDER-9 is completed and part of the new hire packet. Applicants or current employees for USDOT positions must be asked if they failed or refused a USDOT pre-employment test in the previous two (2) years.

9.2 RETENTION AND RELEASE

All drug and alcohol testing records will be maintained in a secure manner so that disclosure of information to unauthorized persons does not occur. Information will only be released in the following circumstances:

- To a third party, only as directed by specific and written instruction of the employee;
- To the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on the behalf of the employee tested;
- To a subsequent employer upon receipt of a written request from the employee;
- Information obtained from previous employers of a drug and alcohol rule violation;
- To the National Transportation Safety Board (NTSB) during an accident investigation;
- To the USDOT or any USDOT agency with regulatory authority over the employer or any of its employees, or to a State oversight agency authorized to oversee rail fixed-guideway systems;
- To the employee, upon written request;
- Records will be released if requested by a Federal, State or local safety agency with regulatory authority over City transportation systems(s).

If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40, necessary legal steps will be taken by the City to contest the issuance of the order.

Drug testing records shall be kept using the following guide:

Five Year Records:
- Records of alcohol test results indicating an alcohol concentration of 0.02 or greater;
- Records of verified positive drug test results;
- Documentation of refusals to take required alcohol and/or drug tests (including substituted or adulterated drug test results);
- SAP reports; and
- All follow-up tests and schedules for follow-up tests.

Three Year Records:
- Information obtained from previous employers under §40.25 concerning drug and alcohol test results of employees.

Two Year Records:
- Records of the inspection, maintenance, and calibration of EBTs.

One Year Records:
- Negative and cancelled drug test results and alcohol test results with a concentration of less than 0.02.

10. EMPLOYEE AND SUPERVISOR TRAINING

10.1 GENERAL

All safety-sensitive employees will undergo a minimum of one (1) hour of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training must also include manifestations and behavioral cues that may indicate prohibited drug use.

10.2 SUPERVISORS

Supervisors will receive an additional one hour of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and one hour of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

Information on the signs, symptoms, health effects and consequences of alcohol misuse is present in the appendix section of this policy.

11. MINIMUM THRESHOLDS

The DHHS establishes the minimum threshold levels for each of the five drugs tested for under USDOT testing programs including the FTA. Minimum levels are established for both the initial screening test and for the confirmatory test. A sample of urine provided by the employee/applicant is used to test for the presence of any of the drugs or drug metabolites. Federal government regulations and the USDOT testing guidelines mandate cutoffs for a minimum quantity of drug or alcohol that must be detected in the initial test and also in the confirmation test. When the initial test results reach the minimum cutoff limit, a confirmation test is conducted using the cutoff limits established for the confirmation test.

12. DILUTED TESTS

If a test is issued as positive dilute, the test is treated as a verified positive test. If a negative drug test result is issued as dilute, the employee must take another drug test immediately. This second test is not under direct observation unless there is a reason other than the test was deemed/verified positive dilute and requires direct observation testing.

13. DISCIPLINE AND CONSEQUENCES

A. An employee who tests for alcohol will receive a mandatory referral to a substance abuse counsellor (0.02 to 0.039 result). An employee subject to DOT testing will be referred to a SAP (0.04 result or above). If the employee is not terminated, the employee will be removed immediately from performing his or her duties. *The employee will also receive a five-day (5) suspension without pay and 180-day performance probation in addition to the mandatory referral.*

B. For drug and alcohol testing, an employee who refuses (outlined in section 5.4) to submit to a drug or alcohol test when required by this policy will be considered to have refused the test, will have an alcohol violation, *and will be terminated. A pre-termination hearing will also be provided, along with a referral to a SAP.* An employee who is subject to post-accident testing who unnecessarily leaves the scene of an accident before a required test is administered, fails to remain readily available for testing, including notifying the employer of his or her location prior to submission to the test, will be considered to have refused the test and will have a non-negative test result. The employee *will be terminated. A pre-termination hearing will also be provided, along with a referral to a SAP.*

C. If an employee alleges that, because of medical reasons, he or she is unable to provide a sufficient amount of breath to permit a valid breath test, the BAT shall instruct the employee a second time to attempt to provide an adequate amount of breath. If the employee continues to allege an inability to provide a sufficient amount of breath for the test, the department shall be notified that the employee has refused to be tested. The employee will be directed to obtain an evaluation within 72 hours from a licensed physician acceptable to the City to address the employee's medical ability to provide the adequate amount of breath. If there is not a medical reason acceptable to the City for the employee's

inability to provide the breath, the employee will be considered to have refused to submit to the alcohol test and *will be terminated.* A pre-termination hearing will also be provided, along with a referral to a SAP.

D. If the employee claims to be unable to provide a urine specimen, the employee shall remain at the designated collection site until the specimen is provided or three hours have passed, whichever occurs first. If the employee is unable to provide such a quantity of urine, the employee will be urged to drink up to 40 ounces of fluids distributed reasonably through a period of up to three (3) hours, or until the individual has provided a sufficient urine specimen, whichever occurs first. If the employee is still unable to provide an adequate specimen after three (3), testing shall be discontinued and DER shall be notified. The employee will be directed to obtain, within five (5) working days, an evaluation from a licensed physician acceptable to the MRO, or from the MRO, if appropriate. If there is not a medical reason acceptable to the MRO for the employee's inability to provide the urine, the employee will be considered to have refused to submit to the drug test and *will be terminated. A pre-termination hearing will also be provided, along with a referral to a SAP. Exception: those non-USDOT-designated City of Charlotte employees requiring a reasonable accommodation may attach an oral test.*

E. Employees returning to the workforce following completion of a drug and/or alcohol rehabilitation program, or employees who are subject to the return-to-duty provisions as outlined in the policy, will be required to undergo a return-to-duty test, and will also be tested on an unannounced and periodic basis for drugs and/or alcohol up to 60 months following their return to work. Employees will be required to submit to a minimum of six (6) follow-up tests within the first 12 months of resumed duty. Should an employee have a result of 0.02 to less than 0.04 on a follow-up test, there is no DOT violation and thus a SAP referral is not permitted. Any follow-up breath-alcohol test result of 0.02 or greater *will result in employee termination. A pre-termination hearing will be provided.*

§ 40.191 What is a refusal to take a DOT drug test, and what are the consequences?

(a) As an employee, you have refused to take a drug test if you:

(1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee (including an owner-operator) to appear for a test when called by a C/TPA (see §40.61(a));

(2) Fail to remain at the testing site until the testing process is complete; Provided, That an employee who leaves the testing site before the testing process commences (see §40.63 (c)) for a pre-employment test is not deemed to have refused to test;

(3) Fail to provide a urine specimen for any drug test required by this part or DOT agency regulations; Provided, That an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences (see §40.63 (c)) for a pre-employment test is not deemed to have refused to test;

(4) In the case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of your provision of a specimen (see §§40.67(l) and 40.69(g));

(5) Fail to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure (see §40.193(d)(2));

(6) Fail or decline to take an additional drug test the employer or collector has directed you to take (see, for instance, §40.197(b));

(7) Fail to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under §40.193(d). In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment. If there was no contingent offer of employment, the MRO will cancel the test; or

(8) Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector).

(9) For an observed collection, fail to follow the observer's instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.

(10) Possess or wear a prosthetic or other device that could be used to interfere with the collection process.

(11) Admit to the collector or MRO that you adulterated or substituted the specimen.

(b) As an employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

(c) As an employee, if you refuse to take a drug test, you incur the consequences specified under DOT agency regulations for a violation of those DOT agency regulations.

(d) As a collector or an MRO, when an employee refuses to participate in the part of the testing process in which you are involved, you must terminate the portion of the testing process in which you are involved, document the refusal on the CCF (including, in the case of the collector, printing the employee's name on Copy 2 of the CCF), immediately notify the DER by any means (e.g., telephone or secure fax machine) that ensures that the refusal notification is immediately

received. As a referral physician (e.g., physician evaluating a “shy bladder” condition or a claim of a legitimate medical explanation in a validity testing situation), you must notify the MRO, who in turn will notify the DER.

(1) As the collector, you must note the refusal in the “Remarks” line (Step 2), and sign and date the CCF.

(2) As the MRO, you must note the refusal by checking the “Refusal to Test” box in Step 6 on Copy 2 of the CCF, checking whether the specimen was adulterated or substituted and, if adulterated, noting the adulterant/reason. If there was another reason for the refusal, check “Other” in Step 6 on Copy 2 of the CCF, and note the reason next to the “Other” box and on the “Remarks” lines, as needed. You must then sign and date the CCF.

(e) As an employee, when you refuse to take a non-DOT test or to sign a non-DOT form, you have not refused to take a DOT test. There are no consequences under DOT agency regulations for refusing to take a non-DOT test.

[65 FR 79526, Dec. 19, 2000, as amended at 66 FR 41953, Aug. 9, 2001; 68 FR 31626, May 28, 2003; 71 FR 49384, Aug. 23, 2006; 73 FR 35974, June 25, 2008; 75 FR 59108, September 27, 2010]

APPENDIX #1

POLICY DEFINITIONS

Accident means:

Under City Policy:

A non-vehicular occurrence which results:

a. In a fatality; OR
b. Any person involved requires immediate medical treatment away from the scene of the accident; OR
c. When the City cannot completely discount the employee's conduct as a contributing factor to the accident.

A vehicular occurrence, including personal vehicles used for City business, which results:

a. In a fatality; OR
b. Any person involved requires immediate medical treatment away from the scene of the accident; OR
c. The driver receives a citation from a law enforcement official; OR
d. One or more motor vehicles incur disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.

Under FMCSA:

An accident is defined (§382.303) as an occurrence associated with the operation of a vehicle in which:

a. An individual dies; OR
b. Any person involved requires immediate medical treatment away from the scene of the accident: OR
c. The driver receives a citation from a law enforcement official; OR
d. One or more motor vehicles incur disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.

Under FTA:

An accident is defined (§655.4) as an occurrence associated with the operation of a vehicle in which:

a. An individual dies; OR
b. Any person involved requires immediate medical treatment away from the scene of the accident: OR
c. The driver receives a citation from a law enforcement official; OR
d. One or more motor vehicles incur disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle; OR
e. The mass transit vehicle involved is a railcar, trolley car, trolley bus (on a fixed guideway or overhead wire), or vessel and is removed from operation; AND
f. When the City of Charlotte cannot completely discount the employee's Conduct as a contributing factor to the accident.

Alcohol Test means a test for the presence of alcohol in the body as determined through the use of a breath-alcohol test, evidential Breathalyzer test, saliva test, or blood screening. Alcohol use means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

Canceled Test with respect to the results of a drug test means a test result that the MRO declares invalid. A canceled test is neither a positive, nor a negative test. A sample that has been rejected for testing by a laboratory is treated the same as a canceled test. If the analysis of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing or un-testable, the MRO shall cancel the test and report the cancellation and the reason for it to the USDOT, the employer, and the employee/applicant.

In alcohol testing, a test that is deemed to be invalid is neither a positive nor a negative test.

Commercial Motor Vehicle means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

a. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
b. Has a gross vehicle weight rating of 26,001 or more pounds; or
c. Is designed to transport 16 or more passengers, including the driver; or
d. Is of any size and is used in the transportation of materials found to be hazardous as defined by the Hazardous Materials Transportation Act and requires the motor vehicle to be placarded under the Hazardous Materials Regulations.

Confirmed Illegal Involvement/Activity means an admission to, or conviction of, being involved or participating in activity that is illegal according to federal, state, and local laws. The involvement/activity includes, but is not limited to, possessing, selling, buying, making, dispensing, distributing, or using illicit drugs.

Confirmation Test for Alcohol means a second test, following a screening test with a result of 0.02 or greater (greater than 0.00 for CMPD), which provides quantitative data of alcohol concentration.

Confirmation Test for Controlled Substances means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy. Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for the five (5) Substance Abuse and Mental Health Services Administration (SAMHSA) drugs.

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of federal or state criminal drug statutes.

Criminal Drug Statute means a criminal statute involving manufacture, distribution, dispensation, use or possession of any controlled substance.

Direct Observation means observations that are performed by a collection site employee or a CMPD supervisor of the same sex.

Drug means a controlled substance as listed in Schedules I through V of Section 202 of the Controlled Substances Act (21 USC 812), or NC GS 90-87(5), or a metabolite thereof.

Medical Review Officer (MRO) is a licensed physician or Doctor of Osteopathy with specific training in the area of substance abuse. The MRO not only has knowledge of substance abuse disorders, but also has been trained to interpret and evaluate laboratory test results in conjunction with an employee's medical history. A MRO verifies a positive drug test result by reviewing a laboratory report and an employee's unique medical history to determine whether the result was caused by the use of prohibited drugs or by an employee's medical condition.

Negative, with respect to the results of a drug test, means a test result that does not show presence of drugs at a level specified to be a positive test.

Negative, with respect to the results of an alcohol test, means a test result which indicates a breath alcohol concentration of less than 0.02 (or 0.00 for CMPD).

Obstruction means conduct that obstructs the testing process that includes providing a urine specimen that has been adulterated, substituted, and/or any other action that results in a urine specimen that cannot be properly tested for illicit drugs.

On Call means being subject to a call to immediately report to work for the City.

On Duty means when an employee is at his or her workplace, when an employee is performing job duties, when an employee is on call, and during any other period of time for which an employee is entitled to receive pay from the City.

Other Substance means any substance that has the potential to impair appreciably the mental or physical function of a person who does not have an unusual or extraordinary reaction to such substance.

Pass an Alcohol Test is a negative alcohol test. The test showed no evidence or insufficient evidence of a prohibited level of alcohol.

Pass a Drug Test means that the result of a drug test is negative. The test either:

- Showed no evidence or insufficient evidence of a prohibited drug or drug metabolite; or
- Showed evidence of a prohibited drug or drug metabolite but there was a legitimate medical explanation for the result as determined by a certified MRO.

Positive, with respect to the results of a drug test, means a laboratory finding of the presence of a drug or a drug metabolite in the urine or blood (if applicable) of an employee at the levels identified by SAMHSA, or for drugs not subject to SAMHSA guidelines, at the levels identified by the City; all "positive" tests will be confirmed using a different technology than the first test, such as the gas chromatography mass spectrometry (GC/MS) process.

Positive, with respect to the results of an alcohol test, means the presence of alcohol in an employee's system at the 0.04 level or greater (greater than 0.00 for CMPD).

Pre-placement Testing is testing conducted on an applicant prior to his being hired. It is also conducted on a current City employee prior to his being promoted, transferred or demoted into a safety-sensitive position as defined by USDOT guidelines or City policy guidelines.

Qualified Negative, with respect to the results of a drug test, means a test in which the lab result is consistent with legal drug use.

Random Testing is conducted on an employee assigned to a City “safety sensitive” position, chosen by a method that provides an equal probability that any employee from a group of employees will be selected. The City administers random testing unannounced, spread reasonably throughout the year, on all days and during hours of operation.

Reasonable Suspicion Section 655.43(b) states "An employer's determination that reasonable suspicion exists shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee."

A supervisor, who has received the required training in detecting the signs and symptoms of probable drug and/or alcohol use, can substantiate specific current articulable observations concerning appearance, behavior, speech, or body odor or other physical indicators of probable drug or alcohol use. Bad behavior or performance issues by themselves

do not constitute reasonable suspicion. Being moody, having a bad attitude, or fighting, for example, does not constitute reasonable suspicion alone. Only when these actions happen in concert with a supervisor's observations of facts are they attributable to drug use or alcohol misuse and relevant to a reasonable suspicion determination.

By way of example, but not limited to any one or a combination of the following may constitute reasonable suspicion:

- Slurred speech
- The odor of marijuana or alcohol about the person
- Inability to walk a straight line
- Behavior which is so unusual that it warrants summoning a supervisor or anyone else in authority; (i.e., confusion, disorientation, lack of coordination, marked personality changes, irrational behavior, physical or verbal altercations)
- Possession of drugs
- Verifiable information obtained from other employees based on their observations
- Arrests, citations and deferred prosecutions associated with drugs or alcohol

An employee subject to the post-accident testing requirements of the USDOT who unnecessarily leaves the scene of an accident before a required test is administered or fails to remain readily available for testing may be deemed to have refused to submit to testing.

Safety-Sensitive Position means:

Under City Authority

- A position will be designated safety-sensitive only where the City has a compelling need, on the basis of safety concerns, to ascertain on-the-job impairment on the part of employees who hold the position. Such a compelling need may arise where the duties of a position create, or are accompanied by, such a great risk of injury to self, other persons, or to property, of such magnitude that even a momentary lapse of attention, judgment, or dexterity could have disastrous consequences.

Under FMCSA

An employee is performing a safety-sensitive function if they are:

- Driving a commercial motor vehicle which requires the driver to have a commercial driver's license (CDL)
- Inspecting, servicing, or repairing any commercial motor vehicle
- Waiting to be dispatched to operate a commercial motor vehicle
- Performing all other functions in or upon a commercial motor vehicle
- Loading or unloading a commercial motor 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 being loaded or unloaded
- Performing driver requirements associated with an accident
- Repairing, obtaining assistance, or remaining in attendance upon a disabled commercial motor vehicle

Under FTA an employee is performing a safety sensitive function if he/she is:

a. Operating a revenue service vehicle, such as a Special Transportation van/bus, or light rail vehicle, (including but not limited to rail operator, controller, rail maintenance repair, rail maintenance mechanic, etc.) in Charlotte Area Transit System's Light Rail section) including when not in revenue service
b. Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver's License (CDL)
c. Controlling dispatch or movement of equipment used in revenue service
d. Maintaining a revenue service vehicle or equipment used in revenue service

e. Carrying a firearm for security reasons

Note: Determination as to which positions are safety-sensitive will be based on USDOT guidelines or the recommendation of the department director and approval by the Human Resources Department. (See Exhibit X – Charlotte Area Transit System Designated Safety Sensitive Positions Covered under USDOT [FTA] Regulations)

Supervisor, in general, means any employee who has the authority to direct the job activities of one or more employees. With respect to a particular employee, the term means such employee's immediate supervisor and all persons having indirect supervisory authority over such employee.

Substance Abuse Counsellor

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, licensed marriage and family counselor, addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission), with knowledge of, and clinical experience in, the diagnosis and treatment of both drug and alcohol-related disorders.

The City contracts its SAPs through its EAP. **The contact number is 800-765-3277. Employees should ask to speak with a Care Coordinator who will make an assessment and refer the employee to a qualified SAP as mandated by the USDOT.**

Unannounced Follow-up Testing is testing conducted on an employee on a periodic, unannounced basis, following his or her return to work from an approved drug or alcohol rehabilitation program.

Workplace means the location or facility where an employee may be expected to perform any task related to the requirements of his job. This includes break rooms and restrooms, outdoor worksites, City or personal vehicles (while personal vehicle is being used for City business), computer work stations, conference rooms, hallways, private offices, open/partitioned work areas, public contact/customer service/medical services areas, and parking lots with the exception of "storage only" in vehicles which are not used for City business.

APPENDIX #2:

DRUG AND ALCOHOL AND FACT SHEET

ALCOHOL

Alcohol is a socially-acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for enjoyment and relaxation during social gatherings. However, when consumed primarily for its physical and mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

SIGNS AND SYMPTOMS OF USE

- Dulled mental processes
- Lack of coordination
- Odor of alcohol on breath
- Possible constricted pupils
- Sleepy or stupor-like condition
- Slowed reaction time
- Slurred speech

(Note: Except for the odor, these are general signs and symptoms of any depressant substance.)

HEALTH EFFECTS

The chronic consumption of alcohol (average of three (3) servings per day of beer [12 ounces/serving], whiskey [1 ounce/serving] or wine [6 ounces/serving]) over time may result in the following health hazards:

- Decreased sexual function
- Dependency (up to 10 percent of all people who drink alcohol become physically and/or mentally dependent on alcohol and can be termed "alcoholic")
- Fatal liver disease
- Pancreatitis
- Spontaneous abortion and neonatal mortality
- Ulcers
- Birth defects (up to 54 percent of all birth defects are alcohol related)

SOCIAL ISSUES

- Two-thirds of all homicides are committed by people who drink prior to the crime.
- Two to three percent of the driving population is legally drunk at any one time. This rate is doubled at night and on weekends.
- Two-thirds of all Americans will be involved in an alcohol-related vehicle accident during their lifetimes.
- The rate of separation and divorce in families with alcohol dependency problems is seven (7) times the average.
- Forty percent of family court cases are alcohol problem related.
- Alcoholics are 15 times more likely to commit suicide than are other segments of the population.
- More than 60 percent of burns, 40 percent of falls, 69 percent of boating accidents, and 76 percent of private aircraft accidents are alcohol related.

WORKPLACE ISSUES

- It takes one (1) hour for the average person (150 pounds) to process one serving of an alcoholic beverage from the body.
- Impairment in coordination and judgment can be objectively measured with as little two (2) drinks in the body.
- A person who is legally intoxicated is six (6) times more likely to have an accident than a sober person is.

AMPHETAMINES
Amphetamines are central nervous system stimulants that speed up the mind and body. The physical sense of energy at lower doses and the mental exhilaration at higher doses are the reasons for their abuse. Although widely prescribed at one time for weight reduction and mood elevation, the legal use of amphetamines is now limited to a very narrow range of medical conditions. Most amphetamines that are abused are illegally manufactured in foreign countries and smuggled into the U.S. or clandestinely manufactured in crude laboratories.

DESCRIPTION
- Methamphetamine is often sold as a creamy white and granular powder or in lumps and is packaged in aluminum foil wraps or sealable plastic bags. Methamphetamine may be taken orally, injected, or snorted into the nose.
- Trade/street names include Biphetamine, Delcobese, Desotyn, Detedrine, Chetrol, Ritalin, Speed, Meth, Crank, Crystal, Monster, Black Beauties, and Rits.
- Amphetamine is sold in counterfeit capsules or as white, flat, doubled-scored "minibennies." It is usually taken by mouth.

SIGNS AND SYMPTOMS OF USE
- Hyper excitability, restlessness
- Dilated pupils
- Increased heart rate and blood pressure
- Heart palpitations and irregular beats
- Profuse sweating
- Rapid respiration
- Confusion
- Panic
- Talkativeness
- Inability to concentrate
- Heightened aggressive behavior

HEALTH EFFECTS
- Regular use produces strong psychological dependence and increasing tolerance to drug.
- High doses may cause toxic psychosis resembling schizophrenia.
- Intoxication may induce a heart attack or stroke due to spiking of blood pressure.
- Chronic use may cause heart and brain damage due to severe constriction of capillary blood vessels.
- The euphoric stimulation increases impulsive and risk-taking behaviors, including bizarre and violent acts.

WORKPLACE ISSUES
Since amphetamines alleviate the sensation of fatigue, they may be abused to increase alertness because of unusual demands or failure to get rest. Low-dose amphetamine use will cause a short-term improvement in mental and physical functioning. With greater use or increasing fatigue, the effect reverses and has an impairing effect. Hangover effect is characterized by physical fatigue and depression, which may make operation of equipment or vehicles dangerous.

CANNABINOIDS (MARIJUANA)
Marijuana is one of the most misunderstood and underestimated drugs of abuse. People use marijuana for the mildly tranquilizing and mood/perception altering effects its produces.

DESCRIPTION
Usually sold in plastic and sandwich bags, leaf marijuana will range in color from green to light tan. The leaves are usually dry and broken into small pieces. The seeds are oval with one slightly pointed end. Less prevalent, hashish is a compressed, sometimes tar like substance ranging in color from pale yellow to black. It may also be sold in an oily liquid. Marijuana has a distinctly pungent aroma resembling a combination of sweet alfalfa and incense. Cigarette papers, roach clip holders, and small pipes made of bone, brass, or glass are commonly found and associated with marijuana use. Smoking "bongs" (large bore pipes for inhaling large volume of smoke) can easily be made from soft drink cans and toilet

paper rolls. Trade/street names include Marinol, THC, Pot, Grass, Joint, Reefer, Acapulco Gold, Sinsemilla, Thai Sticks, Hash, and Hash Oil.

SIGN AND SYMPTOMS OF USE

- Chronic fatigue and lack of motivation
- Irritating cough, chronic sore throat
- Reddened eyes (often masked by eye drops)
- Slowed speech
- Distinctive odor on clothing
- Lackadaisical "I don't care" attitude

HEALTH EFFECTS

- When marijuana is smoked, it is irritating to the lungs. Chronic smoking causes emphysema-like conditions.
- One joint causes the heart to race and be overworked. People with undiagnosed heart conditions are at risk.
- Marijuana is commonly contaminated with the fungus Aspergillus, which can cause serious respiratory tract and sinus infections.
- Marijuana smoking lowers the body's immune system response, making users more susceptible to infection. The U.S. government is actively researching a possible connection between marijuana smoking and the activation of AIDS in positive immunodeficiency virus (HIV) carriers.

PREGNANCY PROBLEMS AND BIRTH DEFECTS

The active chemical, tetrahydrocannabinol (THC), and 60 other related chemicals in marijuana concentrate in the ovaries and testes. Chronic smoking of marijuana in males causes a decrease in the sex hormone, testosterone, and an increase in estrogen, the female sex hormone. The result is a decrease in sperm count, which can lead to temporary sterility. Occasionally, the onset of female sex characteristics including breast development occurs in heavy users. Chronic smoking of marijuana in females causes a decrease in fertility and an increase in testosterone. Pregnant women who are chronic marijuana smokers have a higher than normal incidence of stillborn births, early termination of pregnancy, and a higher infant mortality rate during the first few days of life. In test animals, THC causes birth defects, including malformations of the brain, spinal cord, forelimbs, and liver, and water on the brain and spine. Offspring of test animals who were exposed to marijuana have fewer chromosomes than normal, causing gross birth defects or death of the fetus. Pediatricians and surgeons are concluding that the use of marijuana by either or both parents, especially during pregnancy, leads to specific birth defects in infant's feet and hands. One of the most common effects of prenatal cannabinoid exposure is underweight newborn babies. Fetal exposure may
decrease visual functioning and causes other ophthalmic problems.

MENTAL FUNCTION

Regular use can cause the following effects:

- Delayed decision-making
- Diminished concentration
- Impaired short-term memory, interfering with learning
- Impaired signals detection (ability to detect a brief flash of light), a risk for users who are operating machinery
- Impaired tracking (the ability to follow a moving object with the eyes) and visual distance measurements
- Erratic cognitive function
- Distortions in time estimation
- Long-term negative effects on mental function as "acute brain syndromes," which is characterized by disorders in memory, cognitive function, sleep patterns, and physical conditions.

ACUTE EFFECTS

- Aggressive urges
- Anxiety
- Confusion
- Fearfulness
- Hallucinations

- Heavy sedation
- Immobility
- Mental dependency
- Panic
- Paranoid reaction
- Unpleasant distortions in body image

WORKPLACE ISSUES
The active chemical, THC, stores in body fat and slowly releases over time. Marijuana smoking has a long-term effect on performance. A 500 to 800 percent increase in THC concentration in the past several years makes smoking three to five joints a week today equivalent to 15 to 40 joints a week in 1978. Combining alcohol or other depressant drugs with marijuana can produce a multiplied effect, increasing the impairing effect of both the depressant and marijuana.

HEMP PRODUCTS

HEMP WARNING
Food products containing hemp may have sufficient THC to cause impairment and produce positive marijuana drug test results. The Hemp plant, from which marijuana is derived, also produce edible seeds which can be legally imported into the United States after they are "sterilized," a process which is intended to render the seed incapable of being sprouted and to remove "all traces of THC." Virtually all hemp food packaging is labeled that it "CONTAINS NO THC".

This is apparently inaccurate. One major manufacturer advertises that they have the lowest levels of THC at only 33 parts per million. Others say residual THC in their products is under 50 parts per million and claim competitive products may contain as much as 1,300 parts per million.

Because of the concern for workplace safety, which could be jeopardized by THC from any source, employees are encouraged to refrain from using hemp-containing food products until the effectiveness of seed sterilization in removing THC can be documented through independent testing.

Job applicants or employees testing positive for marijuana, claiming use of hemp-containing food products will be considered positive. **All employees verified with positive drug-test results will be terminated, pending pre-termination hearing.**

COCAINE
Cocaine is used medically as a local anesthetic. It is abused as a powerful physical and mental stimulant. The entire central nervous system is energized. Muscles are tenser, the heart beats faster and stronger, and the body burns more energy. The brain experiences exhilaration caused by a large release of neuro-hormones associated with mood elevation.

DESCRIPTION
The source of cocaine is the coca bush, grown almost exclusively in the mountainous region of northern South America. Cocaine Hydrochloride "snorting coke," is a white to creamy granular or lumpy powder that is chopped into a fine powder before use. It is snorted into the nose, rubbed on the gums, or injected in veins. The effect is felt within minutes and lasts 40 to 50 minutes per "line" (about 60 to 90 milligrams). Common paraphernalia include a single-edged razor blade and a small mirror or piece of smooth metal, a half straw or metal tube, and a small screw cap vial or folded paper packet containing the cocaine. Cocaine Base is a small crystalline rock about the size of a small pebble. It boils at a low temperature, is not soluble in water, and is up to 90 percent pure. It is heated in a glass pipe and the vapor is inhaled. The effect is felt within seven (7) seconds. Common paraphernalia includes a "crack pipe" (a small glass smoking device for vaporizing the crack crystal) and a lighter, alcohol lamp or small butane torch for heating. Trade/street names include Coke, Rock, Crack, Free Base, Flake, Snow, Smoke, and Blow.

SIGNS AND SYMPTOMS OF USE
- Financial problems
- Frequent and extended absences from meetings or work assignment
- Unusual defensiveness, anxiety, agitation

- Wide mood swings
- Runny or irritated nose
- Increased physical activity and fatigue
- Isolation and withdrawal from friends and normal activities
- Secretive behaviors, frequent non-business visitors, delivered packages, phone calls
- Difficulty in concentration
- Dilated pupils and visual impairment
- Restlessness
- Formication (sensation of bugs crawling on skin)
- High-blood pressure, heart palpitations, and irregular heart rhythm
- Hallucinations
- Hyper excitability and overreaction to stimulus
- Insomnia
- Paranoia and hallucinations
- Profuse sweating and dry mouth
- Talkativeness

HEALTH EFFECTS
Research suggests that regular cocaine use may upset the chemical balance of the brain. As a result, it may speed up the aging process by causing irreparable damage to critical nerve cells. The onset of system illness, such as Parkinson's disease, could also occur. Cocaine use causes the heart to beat faster and harder and rapidly increases blood pressure. In addition, cocaine causes spasms of blood vessels in the brain and heart. Both effects lead to ruptured vessels causing strokes or heart attacks.

Strong psychological dependency can occur with one "hit" of crack. Usually, mental dependency occurs within days when using crack or within several months when snorting cocaine. Cocaine causes the strongest mental dependency of any known drug. Treatment success rates for cocaine are lower than for other chemical dependencies. Cocaine is extremely dangerous when taken with depressant drugs. Death due to overdose is rapid. The fatal effects of an overdose are not usually reversible by medical intervention. The number of cocaine overdose deaths has tripled since 1996. Cocaine overdose is one of the most common drug emergencies.

WORKPLACE ISSUES
- Extreme mood and energy swings create instability. Sudden noises can cause a violent reaction.
- Lapses in attention and ignoring warning signals greatly increase the potential for accidents.
- The high cost of cocaine frequently leads to workplace theft and/or dealing.
- Paranoia onset and withdrawal create unpredictable and sometimes violent behavior.
- Work performance is characterized by forgetfulness, absenteeism, tardiness, and missed assignments

OPIATES (NARCOTICS)
Opiates (also called narcotics) are drugs that alleviate pain, depress body functions and reactions, and cause a strong euphoric feeling when taken in large doses.

DESCRIPTION
Varieties of opiates include natural and natural derivatives - opium, morphine, codeine, and heroin as well as synthetics, such as Meperidine (Demerol), Oxymorphone (Numorphan), and Oxycodone (Percodan). Opiates may be taken in pill form, smoked, or injected, depending upon the type of narcotic used. Trade/street names include Smack, Horse, Emma, Big D, Dollies, Juice, Syrup, and China White.

SIGNS AND SYMPTOMS OF USE
- Mood changes
- Impaired mental functioning and alertness
- Constricted pupils
- Depression and apathy

- Impaired coordination
- Physical fatigue and drowsiness
- Nausea, vomiting, and constipation
- Impaired respiration

HEALTH EFFECTS
Intravenous (IV) needle users have a high risk for contracting hepatitis and AIDS due to the sharing of needles. Narcotics increase pain tolerance. As a result, people could more severely injure themselves or fail to seek medical attention after an accident due to the lack of pain sensitivity. Narcotics' effects are multiplied when used in combination with other depressant drugs and alcohol, causing increased risk for an overdose.

SOCIAL ISSUES
There are over 500,000 heroin users in the U.S., most of who are IV needle users. An even greater number of medical narcotic-dependent persons obtain their narcotics through prescriptions. Because of tolerance, there is an ever-increasing need for more of the narcotic to produce the same effect resulting in strong mental and physical dependency.

The combination of tolerance and dependency and the resulting need to acquire greater quantities of the drug creates an increasing financial burden for the users. Costs for heroin can reach hundreds of dollars a day.

WORKPLACE ISSUES
Narcotics have a legitimate medical use in alleviating pain. Unwanted side effects such as nausea, vomiting, dizziness, mental clouding, and drowsiness place the legitimate user and abuser at higher risk for an accident. Workplace use may cause impairment of physical and mental functions.

PHENCYCLIDINE (PCP)
Phencyclidine (PCP) was originally developed as an anesthetic, but the adverse side effects prevented its use except as a large animal tranquilizer. Phencyclidine acts as both a depressant and a hallucinogen, and sometimes as a stimulant. It is abused primarily for its variety of mood-altering effects. Low doses produce sedation and euphoric mood changes. The mood can change rapidly from sedation to excitation and agitation. Larger doses may produce a coma-like condition with muscle rigidity and a blank stare with the eyelids half closed. Sudden noises or physical shocks may cause a "freak out" in which the person has abnormal strength, extremely violent behavior, and an inability to speak or comprehend communication.

DESCRIPTION
PCP is sold as a creamy, granular powder and is often packaged in one-inch square aluminum foil or folded paper "packets." It may be mixed with marijuana or tobacco and smoked. It is sometimes combined with procaine, a local anesthetic, and sold as imitation cocaine. Trade/street names include Angel Dust, Dust, and Hog.

SIGN AND SYMPTOMS OF USE
- Impaired coordination
- Severe confusion and agitation
- Extreme mood shifts
- Muscle rigidity
- Nystagmus (jerky eye movements)
- Dilated pupils
- Profuse sweating
- Rapid heartbeat increase
- Dizziness

HEALTH EFFECTS
The potential for accidents and overdose emergencies is high due to the extreme mental effects combined with the anesthetic effect on the body. Other depressant drugs, including alcohol, increase the effects of PCP and could increase the likelihood of an overdose reaction. Misdiagnosing the hallucinations as LCD induced and treating with Thorazine can

cause a fatal reaction. Use can cause irreversible memory loss, personality changes, and thought disorders. There are four (4) phases of PCP abuse.

- The first phase is acute toxicity. It can last up to three days and can include combativeness, catatonia, convulsions, and coma. Distortions of size, shape and perception are common.
- The second phase, which does not always follow the first, is a toxic psychosis. Users may experience visual and auditory delusions, paranoia, and agitation.
- The third phase is a drug-induced schizophrenia that may last a month or longer.
- The fourth phase is PCP-induced depression. Suicidal tendencies and mental dysfunction can last for months.

WORKPLACE ISSUES

PCP abuse is less common today than in recent years. It is also not generally used in a workplace setting because of the severe disorientation that occurs. However, use in the workplace can expose the user and others to extreme safety hazards.

APPENDIX #3

Charlotte of Charlotte
Charlotte Area Transit System
Designated Safety Sensitive Positions Covered under USDOT
(Federal Transit Administration Regulations [FTA])

This safety-sensitive list is inclusive but not limited to the positions noted. Testing is conducted using FTA Regulations.

Business Systems Specialist
Business Systems Manager
CMPD Transit Police
Dispatchers
Electronic Technician
Fleet Supervisor
General Manager of Rail
General Manager of Safety and Security
Manager Rail Car Maintenance
Manager Rail Systems
Manager Rail Transportation
Manager of Safety – Bus
Manager of Safety – Rail
Paratransit Drivers
Paratransit Mechanics (Business Support Services)
Paratransit Operations Manager
Paratransit Supervisors
Rail Car Electro- Mechanic
Rail Car Instructor / Supervisor
Rail Car Maintenance Supervisor
Rail Car Technician
Rail Controller
Rail Dispatcher
Rail Operator
Rail Shop Machinist
Rail Transportation Instructor / Supervisor
Rail Transportation Supervisor
Safety and Security Specialist
Scheduler Manager
Superintendent Rail Operations
Systems Instructor / Supervisor
Train Control & Communication Supervisor
Traction Power Supervisor
Track Supervisor
Track Maintainer
Track & Systems Inspector
Track Laborer
Traction Power Technician
Train Control Technician

City of Charlotte Designated Safety Sensitive
Non-USDOT Positions

Airport Operations Officer
Airport Safety Officer
Animal Control Officer
Animal Control Supervisor
Assistant Fire Chief
Centrifuge/Solids Operator
Chief Treatment Plant Operator
Crime Scene Search Technician
Engineering Assistant
Equipment Operator (Non-CDL)
Field Operations Supervisor
Fire Battalion Chief
Fire Captain
Fire Chief
Firefighter-Engineer
Firefighter
Fire Inspector
Fire Investigator
Fire Storekeeper
Fire Stores Supervisor
Fire Tele-communicator
Laboratory Analyst
Laborer directing traffic; driving non CDL vehicle
Landscape Crew Member/Tree Technician
Maintenance Mechanic Positions (HVAC, Plumber,
Systems
Maintenance Mechanics)
Police Officers
Police Tele-communicator
Property Control Personnel
Pumping Station Supervisor
Pumping Station Operator
Street Maintenance Crew Member
Solid Waste Services Contract Monitors
Traffic Electronic Technician
Transit Rail Trainer
Treatment Plant Operator
Treatment Plant Mechanic
Treatment Plant Supervisor
Utility Technician
Veterinary Technician
Water Quality Technician