

ATTACHMENT A

*CITY OF FRANKFORT  
ALCOHOL AND DRUG FREE WORKPLACE  
GUIDELINES AND PROCEDURE HANDBOOK  
(041309)*

TITLE	TABLE OF CONTENT	PAGE
I. POLICY STATEMENT		2
II. PURPOSE		3
III. JURISDICTION		3
IV. CONDITIONS OF EMPLOYMENT		3
V. SCOPE		3
VI. DEFINITIONS		4
VII. EMPLOYEE ASSISTANCE PROGRAM		7
VIII. PROHIBITED BEHAVIOR		9
IX. EMPLOYEE'S REPORTING RESPONSIBILITIES		10
X. REFUSAL TO SUBMIT TO A PROPER REQUEST FOR TESTING		11
XI. TESTING SAFEGUARDS, TERMINOLOGY, AND GUIDELINES		12
XII. CONFIDENTIALITY		18
XIII. PROCEDURES FOR CONTROL NUMBER ASSIGNMENTS		18
XIV. RANDOM SELECTION PROCEDURES		18
XV. TESTING FACILITIES		19
XVI. SEARCHES		19
XVII. DISCIPLINARY ACTION		19
XVIII. EFFECTIVE DATE		20
XIX. CONSENT		20
ACKNOWLEDGMENT FORM		21

EFFECTIVE: SEPTEMBER 20, 2004, as amended February 23, 2009 and March 23, 2009, and April 13, 2009

**I. POLICY STATEMENT:** *The City of Frankfort is committed to providing a healthy and safe environment for its employees. The influence of alcohol, use of illegal drugs, and misuse of legal drugs create an impairment that subjects fellow employees, property and the public to risks of injury and/or damages that would not exist in an alcohol and drug free workplace.*

*Under City ordinances, policies, and procedures, employees who violate these standards of conduct are subject to disciplinary action which ranges from a minimum of suspension without pay to a maximum of termination from City employment. For the purposes of detecting alcohol and illegal drug use/abuse, drug and/or alcohol tests will be conducted. All tests shall be done in accordance with current applicable statutory or case laws to protect each employee's constitutional rights. Refusal to submit to a drug test or alcohol test shall be immediate grounds for dismissal.*

*The City shall retain jurisdiction over all City employees. Statutes prevail over matters in this policy unless the statutes allow the adoption of stricter standards. Notwithstanding, the City reserves the right, where administrative procedures fail, to pursue all remedies where deemed appropriate.*

*In meeting its responsibilities to employees, the City has an Employee Assistance Program (EAP) which offers assistance to employees seeking help for alcohol and/or drug abuse. Once identified, these problems must be addressed. In addition, lists of sources of information for employees including: counseling, treatment, and rehabilitation services are provided upon request.*

*It shall be a violation of the City Alcohol and Drug Free Workplace Policy for any employee to be convicted of manufacturing, distributing, possessing or using illegal drugs as defined by applicable federal and state laws. The illegal use, distribution, or sale of legally prescribed medication is likewise a violation of this policy. **ANY EMPLOYEE FOUND TO BE ENGAGING IN UNLAWFULLY MANUFACTURING, DISTRIBUTING, DISPENSING, POSSESSING OR USING CONTROLLED SUBSTANCES OR DRUGS WILL BE TERMINATED.***

*Possession of any alcoholic substance in or on government property and/or being at work with a detectable odor of alcoholic substance on an employee's breath (or other reasonable suspicious behavior, including accidents) which when tested results in a Breath Alcohol Content (BRAC) of 0.04 grams per 210 liters of breath or a Blood Alcohol Content (BAC) of 0.04% or above, is a violation of this policy. Additionally, all Commercial Drivers, Sworn Police and Fire Personnel, and Communications Personnel are prohibited from reporting to work or driving government owned/leased vehicles with a BRAC of 0.02 grams per 210 liters of breath or BAC of 0.02% or above. Commercial Drivers, Sworn Police and Fire Personnel, and Communications Personnel subject to "recall", on any 'stand-by' status or, who are subjected to driving while at work, are further prohibited from driving government owned/leased vehicles with a BRAC of 0.02 grams per 210 liters of breath or a BAC of 0.02% or above. Also, the use of illegal drugs or misuse of prescribed drugs or being under the influence of illegal drugs or a misused prescribed drug while in a work status is a violation of this policy. Testing shall conform to Substance Abuse and Mental Health Services Administration (SAMHSA) guidelines, and shall be used to determine if an employee is in violation of this policy.*

*All City places of employment, including property and buildings are covered under this policy. The City reserves the right to search government owned or leased property at any time and to search employees' personal property as allowed by law. Notwithstanding, any employee while at any function under the auspices of City Official Business, regardless of time and/or locality, are subject to this policy (except as*

*provided in Section VIII*

*The Director of Human Resources shall be responsible for the administration of and establishing operational procedures necessary to implement this policy.*

**II. PURPOSE:** *The influence of alcohol, illegal drugs, and misuse of legal drugs creates an impairment that subjects fellow employees, property and the general public to risks of injury and/or damages that would not exist in an alcohol and drug free workplace. In order to create and maintain an alcohol and drug free environment this policy will be strictly followed.*

**III. JURISDICTION:** *The City shall retain jurisdiction over all City employees. Policies established by the City shall be in compliance with current laws in order to guarantee and protect the individual's constitutional rights of privacy and due process of law.*

*Entities separate from the City, but over which the City has authorized jurisdiction, shall follow City policies unless such policy is usurped by statute or administrative regulation applicable to that entity. Statutes prevail over matters in this policy unless the statutes allow the adoption of stricter standards.*

*Situations where searches are conducted, based on reasonable cause, shall be done in an appropriate manner to reflect an individual's rights under the 4<sup>th</sup> Amendment to the United States Constitution.*

*The City reserves the right, where administrative procedures fail, to pursue all remedies where deemed appropriate.*

**IV. CONDITIONS OF EMPLOYMENT:** *Adherence and compliance to this policy including but not limited to the rules, regulations, policies and procedures will be a condition of employment with the City. Execution of the Alcohol and Drug Free Workplace Policy Consent Form acknowledging receipt of this policy (see attached (#1)) is a required condition of employment.*

**V. SCOPE:**

**A. A. Alcohol—Scope and Defined**

*Alcohol in the blood can alter the body's senses and prevent the employee from performing the job duties in a safe and productive manner. Therefore, the use of any ingestible alcoholic substance while in or on government property is strictly prohibited.*

*Reporting to work or having at any time during the work day, a detectable odor of an alcoholic beverage on his/her breath which results in a BRAC of 0.04 grams per 210 liters of breath or a BAC of 0.04% or above shall violate policy and the offending employee shall be suspended or dismissed.*

*As mandated by the federal and state laws which regulate the operation of commercial vehicles, those individuals who are required to operate commercial vehicles, or perform safety sensitive functions or sworn police and fire personnel or communications personnel will be considered under the influence if the amount of alcohol present in the blood or urine is 0.04% or above or present in the breath is 0.04 grams per 210 liters of breath or above. Individuals who are required to operate commercial vehicles, operate heavy or safety sensitive equipment, or perform safety sensitive functions are to be removed from their work for at least twenty four (24) hours if the amount of alcohol present in the blood or urine is at least 0.02% but less than 0.04% or in*

*breath is at least 0.02 grams per 210 liters of breath but less than 0.04. All Sworn Fire and Police Personnel and Communications Personnel are to be removed from their duties for 30 calendar days if the amount of alcohol present in the blood, breath, or urine is at least 0.02% but less than 0.04% or in breath is at least 0.02 grams per 210 liters of breath but less than 0.04. Violation of this policy will result in disciplinary action, but will be at a minimum of a **mandatory 24 consecutive hour suspension** without pay following the receipt of the test results.*

***B. Legal Drugs—Scope and Defined***

*Prescribed drugs, controlled substance or chemical is any drug or chemical prescribed by physician or health care workers licensed and authorized to dispense drugs, and such shall be determined legal drugs so long as:*

- 1. The prescribed drugs on/in the City property are in the original container with the employee's name, the doctor's name, and prescription identification on the label (KRS 218.210).*
- 2. The prescription drugs shall be taken only as prescribed, in dosage and frequency, and shall be taken only by the person whose name appears on the prescription container.*

*Over-the-counter drugs or chemicals or substances legally obtained, not altered, and used for the purpose, and in amounts medically recommended in accordance with the expressed written instructions of the manufacturer or physician licensed to dispense drugs shall be considered legal drugs.*

***C. Illegal Drugs—Scope and Defined***

- 1. Any drug as defined by federal or state controlled substances statutes which cannot be obtained legally.*
- 2. Any drug as defined by federal or state controlled substances statutes which cannot be obtained legally, unless it is prescribed by a duly licensed physician or health care worker authorized to dispense drugs.*
- 3. Any drug which has been legally obtained by prescription, but which is used or distributed by one whose name does not appear on the prescription container or which is not used in the prescribed manner by the person whose name appears on the prescription container.*
- 4. Any combination of alcohol and legal or illegal drugs will be classified as illegal when the used intent is for misuse or abuse.*

**VI. DEFINITIONS: (All definitions are for the purpose of this policy)**

***A. Accident*** - Any unintentional occurrence of events which leads to property damage, physical injury, or death.

***B. Actual Physical Control*** - Term referring to driver's or operator's physical position and capabilities which permit someone to control, manipulate, readily set into motion or operation or utilize vehicles, machinery or equipment.

***C. Alcohol*** - Any ingested substance containing alcohol that can produce a mind or body function alteration.

***D. Blood Alcohol Content (BAC)*** - A scientific measurement of the content of alcohol in the

blood.

**E. Blood Alcohol Test (BAT)** - A medically acceptable procedure or scientifically approved instrumentation test to determine the content of alcohol in the blood.

**F. Chain of Custody** - The ability to identify each person or facility who has control of a sample at any given time from when the sample is taken until a final disposition occurs.

**G. Commercial Drivers/Commercial Driver's License (CDL)** - Without exception, any person employed by the City that is required by federal or state statutes or the City to acquire, possess and maintain a CDL.

**H. CDL Safety Sensitive Function** - Any of the following activities when performed by a CDL holder, if under the influence of any drug or with a BAC of 0.02% or above or BRAC of 0.02 grams per 210 liters of breath or above, would present or impose a possible or real inherent danger to the person, others, or property. Such functions are:

1. All times at a carrier or shipper plant, terminal, facility, or other property, waiting to be dispatched, unless the driver has been relieved from duty by the employer.
2. All times inspecting equipment as required by the Federal Motor Carrier Safety Regulations (FMCSRs) or other federal, state or City requirement, or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time.
3. All times spent at the driving controls of a commercial motor vehicle, including but not limited to driving time.
4. All times, other than driving time, spent on or in a commercial motor vehicle (except for time spent resting in the sleeper berth).
5. All time 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 loaded or unloaded.
6. All time spent performing the driver requirements associated with an accident.
7. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

**I. Contract Employees** - An independent party working for the City under contract, either expressed or implied, written or oral, to provide services or products.

**J. Performing a Safety Sensitive Function** - An employee is considered to be performing a safety sensitive function during any period in which he or she is actually performing, ready to perform or immediately available to perform. This includes any employee who performs a duty(s) that requires a CDL license or any employee who holds a CDL license, or any employee who performs duties under the job function, title or classification of Tech I, II, III or IV, Public Works Director, Street Foreman, Firefighters/Paramedics, Firefighters, Paramedics/EMT's, all sworn police officers and trainees, Emergency Dispatchers, Emergency Preparedness Coordinator, Technical

*Response Coordinator, E-911 Director, Citation Officer, Community Service Specialist, Crossing Guards, Transit Drivers (full-time, part-time and relief/mechanics), Transit Superintendent, Transit Foreman, Sanitation Foreman, Sanitation Superintendent, Street Superintendent, Pump Maintenance Supervisor, Fleet Maintenance Superintendent, Garage Foreman, Mechanic I, II and III, Recycling Coordinator, Laboratory Assistant, Laboratory Technician, Collection System Supervisor, Pump Technician I, II, III and IV, Field Inspector, Electrician, Pre-Treatment Coordinator, Plant Superintendent, Sewer Technician I, II, III and IV, Plant Operator Trainee, I, II, III, and IV, Greenskeeper, Golf Maintenance Worker, Park Maintenance Worker and Parks & Recreation Supervisor.*

- K. Drug Paraphernalia** - Any item used for administering, packaging or transporting illegal drugs.
- L. Drug Test** - Tests scientifically designed and medically approved, that determine the presence of drugs in the body.
- M. Drugs** - Any chemical substance that adversely alters a mind or body function when entering the body.
- N. Evidential Breath-Testing Devices (EBTs)** - a specifically designed device, approved by the National Highway Traffic Safety Administration (NHTSA), used by a certified breath-alcohol technician, following specific breath-testing procedures, in the collection and analysis of breath samples to determine the alcohol level.
- O. Employee** - One working for another for wages or salary, who is directed and controlled during working hours by the employer. An independent contractor is not an employee.
- P. Illegal Drugs** - See Paragraph V(c) above.
- Q. Integrity Checks** - A fail safe mechanism, built in to the urinalysis/urine drug screen, which measures the level of certain elements found in the body that become abnormal when a urine sample to be tested is diluted or altered.
- R. Medical Staff** - Authorized personnel qualified by license or certification to perform medical procedures.
- S. Medical Review Officer (MRO)** - A licensed (doctor or doctor of osteopathy) specifically authorized, appointed, and approved by the City, who is responsible for receiving results generated by the authorized and approved City drug and alcohol testing program laboratory. The MRO shall have knowledge of substance abuse disorders and have appropriate medical training to interpret and evaluate an individual's confirmed positive test results, together with the employee's medical history and any other relevant biomedical information.
- T. Breath Alcohol Content (BRAC)** - A scientific measurement of alcohol from a specific measured sample of breath.
- U. Other City Personnel** - Any individual who occupies a civil service, non-civil service, temporary, part-time, or seasonal position in the City.

- V. Over-The-Counter Medications** - Any chemical substance (defined by federal, state or local substance statutes) found commercially available without a prescription, which is legal to purchase, possess and use, without medical authorization.
- W. Positive Drug Screen** - The results of an approved medical or scientific test, properly reviewed and approved by a MRO, that reveal the presence of an illegal substance in the human body.
- X. Prescription Drugs** - Any chemical substance that must be prescribed by a duly licensed physician or health care worker authorized to dispense controlled substances, that when taken in the manner prescribed, by the persons whose name appears on the original prescription container, is legal.
- Y. Reasonable Suspicion** - Whether a reasonable, prudent individual would believe, based on observation, that someone was under the influence of drugs or alcohol; or that based on observation or information that drugs and/or alcohol is being used, sold, distributed, possessed or stored on City property.
- Z. Substance(s)** - As used in the context, a substance is any chemical compound that will adversely alter the mind or body function when entering the body.
- AA. Sworn Personnel** - Any individual who occupies a "sworn" position in the Divisions of Police and Fire & Emergency Services. **Please note: An individual who has a CDL and occupies a sworn position in the Divisions of Police and Fire & Emergency Services will be disciplined in accordance with the policy for Sworn Personnel, not CDL.**
- BB. Testing Facilities** - Any physical area designated to accurately administer scientific and medically approved tests.
- CC. Under the Influence** - Physical or mental behavior that has been adversely altered or impaired by the introduction of drugs or alcohol into the body.
1. The presence of any drug or substance in the body that will adversely alter the normal function of the mind or body is deemed to render the employee under the influence.
  2. Any employee whose BAC is 0.04% or above or whose BRAC is 0.04 grams per 210 liters of breath or above is considered under the influence.
  3. An employee who operates a Commercial Vehicle or performs safety sensitive functions is considered to be "impaired" if any detectable amount of a controlled substance is present in the blood, breath, or urine or if alcohol is present in the blood or urine which results in a BAC between 0.02% and 0.04%, or which results in a BRAC between 0.02 grams per 210 liters of breath and 0.04.
- DD. Urinalysis/Urine Drug Screen** - Urine samples are screened for specified drugs and/or their metabolites utilizing enzyme immunoassay (EIA) using defined cutoffs.
1. Those urines found to be positive by the EIA methodology are then confirmed by gas chromatography mass spectroscopy (GCMS).
  2. All urine drug screens and confirmations are to be conducted by a laboratory recognized and approved by the College of American Pathologists (CAP) or Substance Abuse and Mental Health Services Administration (hereafter referred to as SAMHSA) (Formerly: National Institute of Drug Abuse (NIDA)).

**VII. EMPLOYEE ASSISTANCE PROGRAM (EAP):** *Early recognition and treatment of drug or alcohol abuse is important for successful rehabilitation. The City encourages the earliest possible diagnosis and treatment for substance or alcohol abuse.*

*In meeting its responsibility to employees, the City has established and maintains an EAP which informs employees of the dangers of alcohol and drug abuse and offers assistance to employees seeking help for alcohol or drug abuse, and the personal and emotional problems associated with abuse.*

**A. Employees Who Seek Assistance - PRIOR TO TESTING:**

*At any time prior to 72 hours before testing, an employee may acknowledge his or her drug or alcohol abuse and secure a leave of absence to undergo rehabilitation. This program must be approved by the Director of Human Resources as being a certified rehabilitation program.*

*An admission of substance abuse, including alcohol, will not subject the employee to disciplinary action providing the aforementioned process is followed and the rehabilitation program is successfully completed by the employee in accordance with the City's requirements.*

*The employee must enter the program and remain in the program as long as required, based upon the recommendations of the treatment provider (licensed clinical social worker, physician, psychologist, psychiatrist).*

*After acknowledgment of substance abuse, refusal to commit to an authorized rehabilitation program will result in termination.*

*Should the employee commit to rehabilitation, a determination will be made by the MRO, the Director of Human Resources and the employee's Department Head as to whether the employee can remain on the job in a current or available substitute duty capacity during rehabilitation, performing duties that pose no risk to fellow employees, property, or the general public or whether the employee must take a leave of absence or sick time during rehabilitation.*

*Once the employee is authorized to return to work, subsequent testing for continued substance use/abuse will be performed based upon a medical recommendation by the treatment provider.*

*The City will, at all times and to the extent possible, respect the employee's right of privacy.*

*Once a rehabilitation program is successfully completed and prior to returning to normal job duties, in addition to spot check screening, a re-entry test will be given. Failure of this test and the secondary confirmation test will cause dismissal proceedings to be commenced immediately before the appropriate disciplining body.*

*Should any subsequent test, confirmed by a second laboratory independent test if requested, show a positive result, dismissal proceedings shall be instituted immediately with no opportunity to show cause.*

**C. Leave During Treatment:** *There will be two (2) types of treatment plans for City employees:*



1. ***In-patient followed by Out-Patient Phase:*** *The in-patient phase will be charged as sick leave or other leave in accordance with ordinance, if such is available. If sick or other leave has been exhausted, their status will be changed to leave of absence without pay.*
2. ***Out-Patient Phase Only:*** *Normally, the employee will return to work at his normal or alternate duties. However, if the EAP Representative recommends other duties during this phase, then provisions will be made.*

***D. Medical Insurance:*** *The cost of rehabilitation will be provided by the City to those employees who are covered by the City's medical insurance, but only to the extent of applicable coverage which exists at the time of any claim. Employees are responsible for all costs not covered by the employee's medical insurance.*

**VIII. PROHIBITED BEHAVIOR:** *The following behavior and activities are prohibited under this policy.*

*A. Use, possession, distribution, or sale of alcohol, illegal drug(s) or drug paraphernalia or the unlawful manufacture, distribution, dispensation, possession or use of controlled substances on government property or within government vehicles.*

*A. Use, possession, distribution, or sale of alcohol on government property or within government vehicles. Use, possession, distribution, or sale of illegal drug(s) or drug paraphernalia or the unlawful manufacture, distribution, dispensation, possession or use of controlled substances on government property or within government vehicles.*

*B. Being impaired anytime during the work day, including breaks and lunch, as a result of using, on the job or off the job, alcohol, illegal drugs, misusing a legally prescribed drug, over-the-counter medication, or any chemical substance, is prohibited behavior.*

*C. Being impaired at any time while in a paid "stand by" status:*

*D. Those "stand by" employees who are called back and impaired are forbidden to respond or report to their work site or job, and shall not accept or respond to any assignment or recall, and shall immediately via telephone report their impairment to their supervisor and/or Department Head.*

*E. Being impaired at any time in a government owned vehicle as a result of using alcohol, an illegal drug, illegal use of a legally prescribed drug, over-the-counter medication, or any chemical substance is prohibited behavior.*

*F. Pertaining to Commercial Vehicles or performing safety sensitive functions:*

1. *Operating or performing any safety sensitive function with a BRAC of 0.02 grams per liters of breath or a BAC of 0.02% or above, or while impaired at any level by any drug.*

2. *Ingesting any alcoholic substance within eight (8) hours of the time an employee is to report to work or prior to the beginning of paid "stand-by" status time.*
3. *Ingesting any alcoholic substances within eight (8) hours after a Critical Incident, unless the employee has been subjected to testing and has been released from work.*
4. *Use of any illegal drugs within eight (8) hours after a critical Incident without medical authorization or under medical treatment.*

*G. Storing in a locker, desk, vehicles, or other places on government premises any illegal drug, drug paraphernalia or alcohol which use or possession is unauthorized.*

*H. Refusing to provide a blood, urine, saliva or breath sample for testing when required for cause, or for authorized random testing.*

*I. Switching or altering any submitted specimen for testing.*

*J. Testing positive for drugs or alcohol.*

*K. Refusing to complete a medical questionnaire or consent form, or knowingly providing false information on the questionnaire prior to authorized testing for illegal drugs or alcohol.*

*L. Refusing to complete a laboratory chain of custody form after providing a laboratory specimen for testing.*

*M. Failure to report to the employee's immediate supervisor and/or Division Director, the use of any legal drug which may adversely alter the employee's behavior, physical or mental ability.*

*N. Failure to report to the employee's immediate supervisor and/or Division Director, any summons, charges, issuance of citations, or conviction(s) relating to incidents involving alcohol or drugs.*

*EXCEPTION CLAUSE (City Sponsored/Authorized Activities/Functions): Possession of alcohol on City property may be allowed, notwithstanding Subsection A above, only where written authorization to possess, dispense, use or sell legal alcoholic beverages at a specific activity or function has been given. This exception shall not be read to allow employees to use alcoholic beverages in City vehicles at any time.*

#### **IX. EMPLOYEES' REPORTING RESPONSIBILITIES:**

**A. LEGAL DRUGS:** *For certain job positions, an employee's use of any legal drug can pose a significant risk to the safety of the employee or others.*

*It shall be the sole responsibility of each employee to take over-the-counter medications only after having read, been read or informed of, and complied with the express written directions,*

*including dosage limitations, warnings, and drug interaction precautions, listed on the respective packaging.*

*Prior to ingesting any prescribed medication or over-the-counter medication, it shall be the sole responsibility of the employee to inquire from the attending physician, pharmacist, or health care provider, if the prescribed medication may limit or impair their ability to perform the duties of his/her position in any way.*

*Employees who have knowledge or have been informed, that the use of any legal drug may present a safety risk, shall immediately report such drug use to their immediate supervisor and/or Department Head to determine job related consequences.*

*Should any legal drug adversely alter the senses of or prevent the employee from performing the job duties in a safe and productive manner, it shall be the responsibility of the employee to notify his/her immediate supervisor and/or Department Head, advising them of the limitations the legal drug poses. Supervisors who are aware of such a situation are to instruct the employee to report performance problems.*

*The supervisor, in counsel with the Department Head and the Director of Human Resources, shall then determine if the employee can safely and effectively perform the assigned job duties while taking the legal drug. If it is determined that the employee cannot perform the job duties safely and effectively, the employee may be required to take a leave of absence, sick time or assigned other duties to be determined by the Department Head and the Director of Human Resources.*

*The City reserves the right to have a government authorized physician review any legal drug usage, including prescription, over-the-counter, or other substances, to determine if the proper dosage or combinations recommended or authorized adversely affect the employee's ability to perform their duties safely and efficiently under the prescribed drug.*

*In cases of an unexpected adverse reaction to any legal drug while at work, the employee, without delay, shall immediately notify his/her immediate supervisor and Department Head.*

*All employees who have an unexpected adverse reaction to any legal drug shall, without delay, safely cease operating machinery, vehicles or equipment where continued operation while impaired may be inherently dangerous, and shall immediately notify their immediate supervisor or Department Head.*

*No supervisor or Division Director may assign, direct, or order an impaired employee to continue operating a vehicle or equipment, or performing a safety sensitive function.*

***B. ALCOHOL/DRUG RELATED ARREST OR SUMMONS:*** *Any Employee arrested or summoned for violation of any law or ordinance pertaining to the illegal manufacturing, distribution, dispensation, possession or use of alcohol, legal or illegal drugs, or foreign substances shall immediately report such arrest or summons to their Department Head, who shall in turn report same to the Director of Human Resources.*

*Such employees shall further be obligated to keep their respective Department Head apprised of the court status and final disposition of the case. Failure to report such violation may be*

*considered grounds for dismissal.*

X. **REFUSAL TO SUBMIT TO A PROPER REQUEST FOR TESTING:** *For the purpose of detecting alcohol and illegal drug use/abuse, drug and alcohol testing will be requested. All tests shall be done in accordance with current applicable statutory or case laws to protect each employee's constitutional rights. Refusal to submit to a drug or alcohol test shall be immediate grounds for dismissal. Kinds of behavior that constitute refusal include; Refusal to take the test (verbal refusal or physical absence), not reporting to the collection site in the time allotted, inability to provide sufficient quantities of breath or urine to be tested without valid medical explanation, tampering with or attempting to adulterate the specimen or interfering with the collection procedure or leaving the scene of an accident without a valid reason before tests have been conducted.*

XI. **TESTING SAFEGUARDS, TERMINOLOGY AND GUIDELINES:** *Alcohol and Drug Screening shall be conducted under the following circumstances:*

A. **ALL URINE SAMPLES WILL BE AT A MINIMUM ANALYZED FOR THE PRESENCE OF THE FOLLOWING DRUG CATEGORIES:**

*Amphetamines  
Cannabinoids  
Cocaine  
Opiates  
Phencyclidine*

**FOR REASONABLE SAMPLING CAUSE TESTING AND POST CRITICAL INCIDENT TESTING, URINE SAMPLES MAY ALSO BE ANALYZED FOR THE PRESENCE OF THE FOLLOWING DRUG CATEGORIES:**

*Benzodiazepine  
Barbiturate  
Methadone  
Methaqualone  
Propoxyphene  
Steroids*

B. **TESTING SAFEGUARDS** - *The following procedures conform to SAMSHA drug testing protocol:*

1. *Employees required to submit to any drug or alcohol testing will sign, after testing, the laboratory form consenting to drug or alcohol testing, and to release the results to the MRO and Division of Human Resources.*
2. *All drug and alcohol testing made reference to in this policy shall be performed in accordance with current federal regulations:*
  - a. *Clinical Testing will be performed by a fully accredited laboratory and*

*not by any employee of the City.*

- b. Collection and safeguarding of test specimens, with a valid chain of custody, shall follow strict chain of custody procedures.*
  - c. Validation by a second confirmation test and verification of all positive test results by referral to the MRO. All interpretation of drug testing will be performed by the MRO and not by the testing facility.*
- 3. Before any action is taken against an employee who tests positive for drugs the employee will be given an opportunity to explain the results directly to the MRO.*
- 4. All testing is done from specimens collected under highly controlled conditions. Specimen collection procedures published in this policy shall be strictly adhered to, and shall be subject to constant review and possible change for the protection of the employee. These include, but are not limited to, the review and inspection of:*
- a. Designated collection sites and procedures.*
  - b. Security measures and procedures of the collection sites.*
  - c. Chain of custody documentation procedures and security.*
  - d. Security measures and procedures for the specimens:*
    - 1) At the collection site.*
    - 2) During transportation to the laboratory.*
    - 3) Storage of specimens at the collection site in lieu of transportation.*
  - e. Laboratory certifications, ratings, and authorization approval from the SAMHSA.*
  - f. Security measures and procedures of the laboratory sites.*
  - g. Laboratory safeguards and procedures for handling specimens.*
  - h. Laboratory integrity checks and procedures.*
  - i. Storage of specimens at the laboratory site for future testing and re-testing.*
- 5. CDL testing laboratories must be currently certified by the SAMHSA.*
- 6. The CDL testing for alcohol will be conducted on Evidential Breath Testing*

*devices (EBT) currently approved and listed with the NHTSA. A confirmation test must be performed and administered by a trained or certified breath alcohol technician capable of operating an EBT device which produces a printed record of the test results and is capable of unique numbering, performing air blanks and external calibration checks.*

7. *All urine specimens will be submitted to the laboratory for testing.*
8. *Two (2) primary tests may be performed by the laboratory:*
  - a. *Initial test-enzyme immunoassay (EIA) method.*
  - b. *Confirmation test - gas chromatography mass spectroscopy (GCMS) method.*
9. *If the initial test (EIA) results are negative, the laboratory will conduct no more testing with the sample and shall report the results as "negative" through the MRO to the Director of Human Resources.*
10. *If the initial test (EIA) results are positive, in that the drug exceed the test standard cutoff levels, the laboratory will conduct a secondary confirmation test from the same specimen by using gas chromatography mass spectrometry (GCMS) techniques.*
11. *If the confirmation test (GCMS) results are positive, the laboratory will secure, safeguard, and store the specimen for future testing or re-testing.*
12. *The laboratory will report, in writing, the positive test results to the MRO only for review and/or investigation.*
13. *Before the MRO verifies the test as positive, the MRO shall directly contact the employee to discuss the results to ascertain if there may be a legitimate medical explanation for the result.*
14. *If the MRO verifies the test as positive, the MRO shall give the employee 72 hours to submit a request to the MRO for a test of the split specimen. The payment of the split sample testing shall be the responsibility of the employee and payment shall be made within twenty four hours of requesting the split sample testing. If the result of the split sample is negative, the City shall reimburse the employee for the cost of the test.*
15. *A split sample utilizes the stored split portion of the initial specimen, which tested positive, to be tested at a different SAMSHA certified drug-testing laboratory.*
16. *If the split portion, which is required to be stored at the initial testing laboratory, is not available or is an insufficient amount for testing, the test is then considered negative and no disciplinary actions are to be imposed.*
17. *Split sample testing of the original sample will be tested with no cut-off levels. If*

*the split sample results are negative, then no additional testing will be performed and the secondary testing laboratory will notify the MRO, in writing, that the split sample test results were "negative", unless the second laboratory detects the presence of an adulterant in the split sample.*

18. *No disciplinary action will be imposed on any employee with a negative test result.*
19. *Positive split sample results will be reported to the MRO, in writing, for review and comparison to the initial testing laboratory findings. The MRO need not notify the employee of the split sample test results.*
20. *Positive split sample results, after review and confirmation will be reported by the MRO, in writing, to the Director of Human Resources.*

**C. *Pre-Employment Screening (PES)*** - *The City will conduct pre-employment screening designed to prevent hiring individuals who use illegal drugs or individuals whose use of alcohol indicates a potential for impaired or unsafe job performance. All persons being considered for employment in a permanent or permanent part time position will be required to submit to pre-employment drug screening as part of the pre-employment process. All employees being transferred into a position as a sworn fireman, sworn policeman, employee performing a safety sensitive function, Communications Personnel, or holding a CDL shall be given a drug test prior to the transfer.*

*Should a primary and secondary test reveal the past use of illegal drugs, the attending technician or physician shall suspend the examination and the physician or technician shall report the findings as "not suitable for employment" to the Director of Human Resources.*

**D. *CDL Testing*** - *All employees who are required to maintain a CDL or those employees who currently possess a CDL or may act as an alternate or back-up driver/operator, shall be subject to random testing.*

**E. *Reasonable Cause Testing (RCT)*** - *Employees will be tested for drugs or alcohol when reasonable suspicion exists to support a belief that the employee is under the influence of drugs or alcohol or that the employee's behavior or work performance has been affected by drugs or alcohol. A determination will be based upon observation and documentation of:*

1. *Detection of an alcoholic substance emitting from the employee's breath. This shall include a detection of a "hang-over" odor.*
2. *Observation(s) of the employee's speech being unusually slurred, or noticeably different without a proper medical reason being given.*
3. *Observation(s) of the employee's actions or conduct as being noticeably different or impaired and not consistent with normal conduct and without proper explanation.*

4. *Observation(s) that the employee's appearance, in conjunction with the above, indicates that the employee is impaired.*
5. *Observation or report that the employee is engaged in the sale, distribution, use or possession of a controlled substance or illegal drug.*
6. *For reasonable cause testing or creditable cause, urine sample shall also be analyzed.*

*At the request of the Department Head or the Director of Human Resources, the observed employee may be required to submit to an independent blood/breath/urine test to determine if the employee is impaired. The requested testing is to be done within two (2) hours but no later than eight (8) hours after the observation. All results of such testing will be delivered immediately to the Director of Human Resources.*

- F. *Post-Critical Incident Testing (PCI)*** - *Any employee involved in a work related accident or incident in which there is one (1) or more fatalities; one (1) or more injuries requiring medical or emergency treatment at a medical facility; or one more of the vehicles involved in the accident is towed, or property damage of \$2,500.00 or more, shall immediately notify their supervisor and will be tested for drug use and blood/breath alcohol presence.*

*Such testing shall be conducted:*

1. *Within two (2) hours of the incident, or*
2. *Within two (2) hours of being released from law enforcement personnel while under:*
  - a. *Detainment;*
  - b. *Apprehension;*
  - c. *Questioning; or*
  - d. *Arrest.*
3. *But no later than eight (8) hours after the incident.*
4. *The requirement to test for drugs and alcohol following an accident should in no way delay necessary medical attention for injured people or prohibit an employee from leaving the scene of the accident to obtain assistance in responding to the accident or to obtain necessary emergency medical care. However, the employee shall remain readily available, which means the City knows the location of the employee. Steps to follow in a post-accident situation are summarized as follows: treat any injury first, cooperate with law enforcement officers or personnel, ascertain the need for testing, conduct the test promptly, and collect accident documentation promptly.*

- G. *Testing in Conjunction With A Treatment Program (SPT)*** - *Employees who are*



participating in a treatment program will be required to submit to follow-up "spot" drug screening at regular and frequent intervals to assure that such employees are remaining drug free. The duration of such tests will be determined by the counselors at EAP or MRO, but could last up to 24 months or more, depending on the circumstances. A "return-to-duty" test will be performed on all employees participating in this program prior to returning to their job.

**H. Random Testing (RAN)** - Random Testing means that drug tests are unannounced and that through a random selection process all employees have an equal chance of being selected. The following are pools for random selection:

1. **SWORN PUBLIC SAFETY EMPLOYEES IN THE FIRE AND POLICE DEPARTMENTS:** These employees are in a position of public trust. They are members of a highly regulated force that performs dangerous duties. They drive heavy equipment, enter homes of citizens and are involved in highly dangerous activities and emergency "life and death" medical duties and responsibilities. They may also enforce drug and alcohol laws, are armed, have powers of arrest, and make "life and death" decisions.
2. **COMMERCIAL DRIVERS:** Previously defined and stated Section "A": Commercial Drivers/Commercial Driver's License (CDL)": In compliance with the Federal Transit Act, the Department of Transportation (DOT), Federal Highway Administration (FHWA), National Highway Traffic Safety Administration (NHTSA), and the Omnibus Transportation Employee Testing Act of 1991, all Commercial Drivers will be randomly tested within this pool.
3. **EMPLOYEES PERFORMING SAFETY SENSITIVE FUNCTIONS:** - An employee is considered to be performing a safety sensitive function during any period in which he or she is actually performing, ready to perform or immediately available to perform. This includes any employee who performs a duty(s) that requires a CDL license or any employee who holds a CDL license, or any employee who performs duties under the job function, title or classification of Tech I, II, III or IV, Public Works Director, Street Foreman, Firefighters/Paramedics, Firefighters, Paramedics/EMT's, all sworn Police Officers and trainees, Emergency Dispatchers, Emergency Preparedness Coordinator, Technical Response Coordinator, E-911 Director, Citation Officer, Community Service Specialist, Crossing Guards, Transit Drivers (full-time, part-time and relief/mechanics), Transit Superintendent, Transit Foreman, Sanitation Foreman, Sanitation Superintendent, Street Superintendent, Pump Maintenance Supervisor, Fleet Maintenance Superintendent, Garage Foreman, Mechanic I, II and III, Recycling Coordinator, Laboratory Assistant, Laboratory Technician, Collection System Supervisor, Pump Technician I, II, III and IV, Field Inspector, Electrician, Pre-Treatment Coordinator, Plant Superintendent, Sewer Technician I, II, III and IV, Plant Operator Trainee, I, II, III, and IV, Greenskeeper, Golf Maintenance Worker, Park Maintenance Worker and Parks & Recreation Supervisor.

*Employees selected for random testing through the use of the random selection procedures specified within this policy shall be subjected to testing of their blood, breath or urine, for the presence of alcohol and/or drugs within their system.*

*During ANY random testing, if a medical staff member of an approved medical facility detects an employee to be under the influence of alcohol or drugs, the employee may be required to submit to additional blood or breath testing prior to submission of the urine specimen, for the purpose of establishing the presence of alcohol.*

*Employees who have reported to any approved medical facility for testing under this policy and are obviously impaired and have a confirmed BRAC test result of 0.02 grams per 210 liters of breath or a BAC test result of 0.02% or above, shall be immediately reported by the medical facility to the Director of Human Resources (or designee).*

*Confirmed positive test results and the corresponding documentation will be forwarded by the medical facility to the MRO for review and investigation.*

**XII. CONFIDENTIALITY:** *Information including test results obtained on individuals as part of this drug and alcohol abuse policy shall be treated confidentially and shall be disclosed to a third party only after express written consent is submitted and approved by the City to those having a legitimate need to know unless used in a court or DOT proceeding. No tests for medical conditions shall be run on samples provided for drug screening. Any medical condition inadvertently identified by drug screening shall remain confidential and shall not be reported to the City.*

**XIII. PROCEDURES FOR CONTROL NUMBER ASSIGNMENTS:** *To ensure that the privacy of an employee is being protected, a control number will be assigned by the testing facilities to all submitted urine specimens. These control numbers will be exclusively assigned so as not to afford any room for duplication, which could subject the employee to erred test results. It removes any name from the sample, thereby virtually eliminating any claims of set-ups or targeting. Further, it provides an easy identification base for retrieving information and records for analysis and statistical compilations and reporting.*

*The control number, in conjunction with a Confirmation Identification Form, will provide a chain from the submitting employee to the test results, without jeopardizing privacy. These controls will also provide a historical record and accessibility, by use of an employee's number, for determination of possible sanctions.*

**XIV. RANDOM SELECTION PROCEDURES:**

**A.** *The City of Frankfort shall participate in a scientifically valid random number selection method to select safety-sensitive employees. Valid methods include the use of a random-number table or a computer-based random-number generator that is matched with safety-sensitive employee's identification numbers. At least 50 percent of the total number of Commercial Drivers, Sworn Fire and Police Personnel, Communications Personnel and safety-sensitive employees subject to drug testing and 10 percent subject*

*to alcohol testing must be tested each year. A slightly higher percentage will be tested to provide for cancelled tests. The Office of Transportation Delivery of KYTC will conduct a computer-based, random-number generated monthly random pull for all members of the statewide Drug and Alcohol Consortium. The City of Frankfort is a member of the statewide Drug and Alcohol Consortium. The annual rate calculated for the City of Frankfort is based on the rates stated above as a participant in the statewide Drug and Alcohol Consortium.*

*All employees in the random pool(s) shall have an equal chance of being selected for testing and shall remain in the pool, even after being tested. It is possible for some employees to be tested several times a year. On the collection date, the Human Resources Director or his designee shall notify the employee's supervisor of the appointment. The supervisor shall notify the employee and request the employee to report immediately to the collection site. The City shall provide transportation to and from the collection site.*

- B. An employee must take a photo identification to the nearest testing facility within two (2) hours of being notified of their random selection.*
- C. Employees who are on vacation, off-duty, or on sick or disability leave, shall not be called in from that status. The Department Head or their alternate shall immediately notify the Division of Human Resources of any employee who is unavailable for testing. Such will be documented with an expected date of return.*
- D. Within seven (7) hours of the employee's return to duty, the Department Head or supervisor shall instruct the employee to report with a valid official photo identification to the designated testing facility within two (2) hours.*

**XV. TESTING FACILITIES;**

*The location of the testing facility will be designated by the City.*

**XVI. SEARCHES;**

*The City reserves the right to conduct searches of City owned property including, but not limited to, lockers, desks and government owned/leased vehicles. Employees will be expected to cooperate in conducting the searches.*

*Searches of employees and employee's personal property located on City property, including automobiles, will only be conducted upon reasonable suspicion that the employee is under the influence of illegal drugs or alcohol, or that illegal drugs or alcohol is being kept on personal property, which is located on City property.*

- XVII. DISCIPLINARY ACTION:** *All employees of the City who, 72 hours prior to a "critical incident", "reasonable cause" and "random" testing, may acknowledge his/her substance abuse by contacting the City's EAP provider and enter a certified rehabilitation program without disciplinary action.*

**DRUGS:** *For all City employees, use of, possession of, or a positive urine drug screen and confirmation of the presence of an illegal drug, shall result in the following:*

1. **1<sup>st</sup> Offense**
  - a. **Immediate termination, or disqualification from being hired.**

**ALCOHOL:** For all City employees:

- a. **Under the Influence:** With a BRAC of 0.04 grams per 210 liters of breath or a BAC of 0.04% or above:  
  
**1<sup>st</sup> Offense:** Immediate termination or disqualification from being hired.
- b. **Impairment:** With a BRAC between 0.02 grams per 210 liters of breath and 0.04 or a BAC of 0.02% but less 0.04%:
  1. **1<sup>st</sup> Offense:** Immediate removal from duty for twenty four (24) hours, or until the BRAC of 0.02 grams per 210 liters of breath or the BAC is less than 0.02% or disqualification from being hired.
  2. **2<sup>nd</sup> Offense:** Shall be recommended for dismissal by the City.

**XVIII. EFFECTIVE DATE:** This policy is effective as of September 20, 2004, and as amended on February 23, 2009 and March 23, 2009, and April 13, 2009.

**XIX. CONSENT:** With the issuance of this policy, each employee will receive an orientation concerning the Alcohol and Drug Free Workplace Policy of the City and will be required to sign the attached consent form acknowledging that he/she has received said policy and was provided the opportunity to have his/her questions answered.