

**A. POLICY****1. Drug Free Workplace Policy**

- (a) Generally - The Employer is concerned with the effects drug abuse can have on employees, their families, and employees' ability to perform their work safely and efficiently. The Employer believes that it is important, as a public entity, to serve as a leader in the community in the war against drugs by establishing a policy prohibiting the manufacture, distribution, dispersal, possession, or use of controlled substances in the workplace. The following policy is designed to meet the above objectives and comply with the provisions of the Drug Free Workplace Act of 1988.
- (b) Notice Upon Hiring
- (i) As a condition precedent to hiring, all prospective employees will receive a copy of the Employer's Drug Free Workplace statement and policy and will be required to sign an Acknowledgement which will become a permanent part of the employees' personnel files.
- (ii) In addition, all prospective employees will be required to acknowledge that they are aware of the Employer's Drug Free Workplace policy and understand that it is a condition of employment (Form B and C).
- (c) Definitions - For purposes of this policy:
- (i) Employee: any person (i.e., management, supervisory, or non-supervisory), who is paid in whole or in part by the Employer.
- (ii) Controlled Substance: any controlled substance contained in Schedules I through V of Section 202 of the Controlled Substances Act (21 USC 812); or as defined by I.C. 35-48-1-9.
- (iii) Conviction: any finding of guilt, including a plea of nolo contendere (no contest) or the imposition of a sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

- (iv) Criminal Drug Statute: a criminal statute involving the manufacture, distribution, dispensation, use, or possession of any controlled substance.
- (d) Distribution of Information - Each Employee will receive annually an information package containing:
  - (i) Information concerning the dangers of drug abuse in the workplace.
  - (ii) A current copy of the Employer's posted/published statement.
  - (iii) A current copy of the Employer's Drug Free Workplace policy.
  - (iv) Information concerning any available drug counseling, rehabilitation, and employee assistance programs.
  - (v) The penalties that will be imposed for a breach of the Employer's Drug Free Workplace policy.
  - (vi) Notice to the Employee that any work related conviction of any Federal or State criminal drug statute must be reported in writing by the Employee to the Employer within five (5) calendar days after such conviction.
- (e) Regulations

The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance by any Employee which takes place in whole or in part in the Employer's workplace is strictly prohibited and will result in criminal prosecution and discipline of the Employee which may include termination from employment.
- (f) Notification of Conviction

Any Employee convicted of any federal, state, or municipal criminal drug statute must notify the Employer of such fact within five (5) calendar days of the conviction.
- (g) Employer Action

The Employer will, within thirty (30) days after receiving notice of a conviction from an Employee or upon concluding that an Employee has violated paragraph (f) above:

  - (i) Take appropriate disciplinary action against such Employee. This action may include suspension or termination; or

- (ii) Require such Employee to satisfactorily participate in a drug rehabilitation program as provided herein.

(h) Failure to Report

Any Employee who fails to report a drug conviction:

- (i) will be terminated from employment; and
- (ii) May be held civilly liable for any loss of federal funds resulting from the failure to report the conviction.

2. Alcohol and Drug Rehabilitation Policy

- (a) Any Employee who is referred to a drug rehabilitation program and fails to satisfactorily participate in the program will be terminated from employment.
- (b) Referral to a rehabilitation program is designed primarily for those employees who appear to have a treatable condition, not to protect those who manufacture, distribute, or dispense drugs in the workplace.
- (c) Prior to employment, the Employer may require non-employees to pass a physical examination which may include blood, urine, or similar testing to determine the use of illegal drugs.
- (d) The Employer recognizes alcoholism and drug addiction as diseases which are treatable, and encourage those employees who may have an alcohol or drug problem to seek professional treatment or assistance on their own initiative.
- (e) For the purposes of this policy, a drinking or drug abuse problem exists when an Employee's alcohol consumption or drug abuse interferes with the employee's job performance, presents a threat to the safety of persons or property, or presents an unfavorable image to the public.
- (f) This policy is intended to assure that no Employee with a drinking problem will have their job security or promotional opportunities jeopardized by a request for treatment. The Employee should read this to mean that a request for treatment will not automatically exonerate them from discipline where the Employer has already initiated disciplinary action for unlawful manufacture, distribution, dispensing, possessing, or use of drugs or other violations of the Employer's policies due to alcohol or drug abuse. An Employee who seeks treatment on the employee's own initiative is in a better

position than one who brings up a drinking or drug problem for the first time in a disciplinary procedure.

- (g) The individual's rights to confidentiality and privacy will be respected to the extent possible. The pertinent information and records of an Employee with alcohol or drug problems will be preserved in the same manner as all other medical records.
- (h) It will be the responsibility of the Employee to comply with the Employer's referral for diagnosis and to cooperate with the prescribed treatment. An Employee's refusal to accept diagnosis or treatment, or failure to respond to treatment, will be handled in the same manner as all other illnesses when job performance continues to be adversely affected. Refusal to cooperate with a referral may be considered insubordination.
- (i) Implementation of this policy will not require or result in any special regulations, privileges, or exemptions from the standard administrative practices applicable to job performance.

3. Drug Test Procedure

- (a) The Employer will test employees and applicants for the following reasons:
  - (i) Pre-Employment Testing - Each individual offered employment must successfully pass a drug test as condition as employment.
  - (ii) Reasonable Cause Testing - When there is reasonable cause to believe that the Employee has inappropriately used drugs or alcohol, the employee may be required to submit to a drug and/or alcohol screening test.
- (b) "Reasonable cause" testing may be based upon such things as:
  - (i) Specific observations concerning the appearance, behavior, speech, or body odors of the Employee, including observation of drug use, drug possession, or possession of drug paraphernalia, physical signs or symptoms of being under the influence of a drug or alcohol, and signs and symptoms of chronic and/or withdrawal effects of drugs;
  - (ii) A pattern of abnormal or erratic behavior as evidenced by the employee's work time actions, appearance, or conduct; or
  - (iii) Arrest or conviction for a drug-related offense.
  - (iv) Having an on-the-job accident requiring medical attention and/or involving property damage.

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If practical, the employee's conduct should be witnessed by two supervisors. If not practical, one supervisor's observations are sufficient. Reasonable cause can also be based upon a report received from a third party observer if the report is independently corroborated.

An Employee who is required to submit to a reasonable cause drug screen will be suspended until the results of the test are disclosed to Employer. If the test result is negative, the Employee will be paid for the regularly scheduled hours missed.

In any reasonable cause situation, Employer will ensure that the Employee is transported to an appropriate facility and then transported back to the work site, where a spouse, family member, or other individual will be contacted to transport the Employee home. If the employee refuses to agree to any of these procedures and attempts to operate his own vehicle, Employer will take appropriate efforts to discourage the employee from doing so, up to and including contacting local law enforcement officials. Any Employee failing to cooperate with any of the procedures described above will be subject to discharge.

- (c) Commercial Drivers License - See Policy 7.6.
- (d) Please refer to the City of Columbia City Drug and Alcohol Abuse Program.

**CITY OF COLUMBIA CITY, INDIANA**  
**Drug and Alcohol Abuse Program**

**PROGRAM OVERVIEW**

For many years, the City of Columbia City, Indiana, has had a strong commitment to provide a safe workplace for its employees and to establish programs which promote a high standard of employee health. Consistent with that commitment, the City has developed a Drug and Alcohol Testing Program. The City's goal is to establish and maintain a work environment that is free from the adverse effects of drug and alcohol abuse.

It is not the intent of City Government to intrude into the private lives of our employees, but we do expect employees to report for work in a condition that enables them to perform their duties without injury to themselves or their fellow employees. An employee who is involved with drugs or alcohol off-the-job can have a negative input on performing his or her job.

Employees who request assistance in dealing with a personal drug or alcohol problem will receive help from the City so long as the request is made prior to the City's request for testing. Those employees requesting assistance, prior to the City's request for testing, will not be terminated and will be referred to the Employee Assistance Program as long as the drug offense is on a first time basis only and the employee agrees to stop any and all involvement with drugs and alcohol. The City will have the right to refer the employee to an appropriate treatment resource that can best help the employee with their problem. Medical Expense Plan Benefits will be available to eligible employees electing to enter a rehabilitation program, subject to the provisions of those Plans. However, by volunteering for help, an employee cannot avoid disciplinary action for a violation of the Policy that has already occurred.

If the employee does not successfully complete a prescribed program, or the employee refuses to participate in a prescribed program, the employee will be terminated. In addition, if a confirmed positive test result follows completion of a prescribed program, the employee may be terminated and will be subject to a termination hearing for failure to follow instructions.

Employees shall not use alcohol or illegal drugs at any time when it could affect their ability to perform their jobs. Any employee whose work performance, attendance, or behavior on the job creates a reasonable question whether the employee is under the impairment of alcohol or using illegal drugs, shall be required to report for a medical examination and/or a substance test. This will be at the expense of the City, on employer time.

Any employee who tests positive for the presence of alcohol greater than 0.02 or illegal drugs, under the terms of this policy, will be subject to dismissal. If an employee is under medical treatment calling for certain prescribed drugs, this fact should be made known and accompanied by a statement from a doctor to avoid any misunderstanding.

When any applicant is given a conditional job offer, he or she shall be tested for the presence of illegal drugs. Any applicant who tests positive for illegal drugs will be rejected for employment.

The City of Columbia City, Indiana, wants to implement this policy in a fair and equitable manner. We are concerned about our employees' privacy and dignity rights at all times. With the cooperation of all employees, we can achieve our goals in this difficult area with minimal discretion.

#### **Persons Affected**

All City employees and applicants for employment or any volunteer whose job responsibility involves public safety (volunteer fire firefighters or police reserve officers for example) shall be subject to the Program.

If a Police Officer or Firefighter of the City of Columbia City test positive, the officer or firefighter will be subject to such disciplinary action by the Board of Public Works & Safety pursuant to disciplinary powers granted the Board under I.C. 36-8-3-4 et seq.

#### **Objectives**

To provide for consistent and documented practices and procedures for pre-employment and employee drug screen and alcohol tests.

To define circumstances when the City may require current employees and volunteers to submit to drug and alcohol screen tests.

To define actions which may be taken against an employee when a positive drug and alcohol screen test is reported or when an employee is otherwise found to have used, possessed, or transferred drugs, or is under the impairment of alcohol.

#### **DEFINITION OF TERMS**

**AFFILIATES:** Cadet program participants, ride-a-long participants, auxiliary members, ICE program participants, etc.

**DRUG SCREEN TEST:** Any scientifically recognized method used to examine human fluids to detect the presence of a drug.

**EMPLOYEE:** Any person who holds a position with the City of Columbia City, who is paid in full or in part from the payroll of the City of Columbia City.

**PRE-EMPLOYMENT DRUG SCREEN TEST:** A drug screen test required of all employment applicants who are offered a condition of employment and volunteers before placing them on the roster.

**POST-ACCIDENT:** Both drug and alcohol testing will be performed following: (a) an accident in which a fatality occurs, (b) an accident in which an injury is treated away from the scene and the driver/employee/volunteer receives a citation for a moving violation arising from the accident, or (c) an accident in which a vehicle is required to be towed from the scene and the driver/employee receives a citation for a moving violation arising from the accident.

**REASONABLE SUSPICION DRUG SCREEN AND ALCOHOL TESTS:** Drug and alcohol screen tests that will be taken when facts and circumstances would cause an employee's or volunteer's Supervisor, Manager or Department Head, using reasonable caution, to believe that an employee or volunteer is using or under the impairment of drugs and/or alcohol.

**RANDOM:** Testing conducted on a random unannounced basis for all employees, determined by a highly qualified independent testing company, and the City of Columbia City, Indiana, by following the Federal DOT regulation requirements in regard to Commercial Drivers License (CDL) holders, 49 CFR Parts 382, et. al., and the Federal Pipeline regulation requirements of CFR Title 49, Part 199. The percentage amount of random testing will match those of (CDL) holders.

**RETESTING:** Any applicants, employees, or volunteers who test positive have the right to have their sample retested. The retesting will be done at the individual's expense. Request for retesting must be sent to the Medical Review Officer (MRO), in writing, within 72 hours of notification of the positive result. Prior to retesting a certified check or money order for the cost of retesting must be received in the office of the independent testing company within 5 calendar day of receipt of certified mailed billing. If not received within 5 calendar days the request for retesting will be null and void.

**EMPLOYEE ASSISTANCE PROGRAM:** Counseling and referral service designed to assist City employees and their families in overcoming personal problems, including substance abuse problems, that are actually or potentially affecting job performance. The City's EAP is offered through Parkview Total Health.

**MEDICAL REVIEW OFFICER (MRO):** Licensed physician who has knowledge of substance abuse disorders and appropriate medical training to interpret drug test results. The MRO is responsible for interpreting and evaluating confirmed positive laboratory results in the context of the employee's medical history and other relevant biomedical information.

**SAFETY SENSITIVE POSITIONS** – Where tasks of the job involve such a great risk of injury to others that even a momentary lapse of attention could have disastrous consequences (includes, but is not limited to emergency management personnel, police, fire, CDL operators, and employees who drive company vehicles on a regular basis).

**VOLUNTEERS:** Refers to volunteer firefighters and/or police reserves or affiliates.

## **DRUG AND ALCOHOL ABUSE TESTING PROGRAM**

### **Policy**

It is the intent of the City to have a strong commitment to provide employees and volunteers with safe working conditions. This simply means that there is no place in our environment for alcohol or drug abuse. This program will follow all Federal DOT regulation requirements, in regard to CDL license holders, 49 CFR Parts 382, et. al., and the Federal Pipeline regulations of CFR Title 49, Part 199, and City employee drug and alcohol policies. Implementation, tracking and



recordkeeping of the Alcohol and Drug Testing Program will be controlled and supervised by a highly qualified independent testing company, designated by the Board of Works, City of Columbia City, Indiana.

#### **Persons Subject to the Testing Program**

- All Applicants for Employment
- All volunteers whose job responsibility involves public safety (volunteer fire firefighters or police reserve officers or affiliates for example)
- All employees who come under the Random Testing program.
- Any other employee and volunteer who, in the judgment of management, appears to be under the impairment of alcohol or drugs while at work or whose job performance is being adversely affected by the possible abuse of drugs and alcohol.

#### **Pre-Employment Drug Screen Testing**

A drug screen test is required of all employment applicants who are offered a conditional offer of employment and volunteers. If testing sample is confirmed positive, applicant will no longer be considered for employment.

#### **Random Testing**

Testing will be conducted for all employee safety-sensitive positions on a random unannounced basis, determined by a highly qualified independent testing company, and the City of Columbia City, Indiana, by following the Federal DOT regulation requirements in regards to CDL license holders, 49 CFR Parts 382, et.al., and the Federal Pipeline regulations requirements of CFR Title 49, Part 199. Random pools and percentage of employees tested will be predetermined by the Board of Works and the Clerk Treasurer. The Human Resources Director will be the administrator of the Drug and alcohol Abuse Testing Program.

#### **Post-Accident**

An employee or volunteer who is driving during working hours, or at any time in a City vehicle or on City business, must submit to post-accident drug and alcohol tests as soon as possible (within two hours) after an accident as described below.

- An employee or volunteer who is not driving, but whose actions are believed to have contributed to the accident, may also be tested.
- An employee or volunteer must submit to a post-accident test as soon as possible after an accident that involves the death of a human being.
- An employee or volunteer must submit to a post-accident test as soon as possible after an accident whenever: (1) the employee receives a citation for a moving violation involving the accident; (2) a person is injured and the injuries require immediate medical attention to the person away from the accident scene; or (3) one or more motor vehicles involved in the accident incur disabling damage and must be transported away for the accident scene by a tow truck or another vehicle.

It is possible that an employee or volunteer will be directed to submit to an alcohol test at the scene of the accident by a law enforcement officer and/or then sent to a testing facility for a drug

test. When a test is conducted by a law enforcement officer, the employee or volunteer is not required to take another alcohol test at the City's testing site.

Whenever an employee or volunteer is involved in an accident as described above, and is not tested for alcohol by a law enforcement officer and is not sent to a testing facility for a drug test, the employee or volunteer is required to notify his or her supervisor immediately. The supervisor will notify the Human Resources Director who will make arrangements for drug and/or alcohol tests in compliance with this policy. The employee or volunteer is not required to delay necessary medical treatment in order to be tested, but should request a drug and alcohol test at the City's expense as a part of any medical treatment.

An employee who is required to take post-accident drug and alcohol tests will, at the City's discretion, be assigned to an available non-Safety Impact Position in the employee's department. If no position is available, or if the City so chooses, the employee will be placed on administrative leave with pay while awaiting the test results. If the test results are positive, the employee will not be paid for the period of the leave.

An employee or volunteer who refuses or fails to submit to a post-accident drug or alcohol test as required, who unnecessarily delays reporting to the test site following an accident, whose test results are positive, or who intentionally obstructs the testing process will be subject to disciplinary action as outlined under Disciplinary Action Section (volunteers will be immediately removed from active member status subject to applicable Department's Disciplinary Policy).

The results of post-accident drug and alcohol tests will not be provided to law enforcement agencies for criminal action.

#### **Reasonable Suspicion Testing**

Each employee or volunteer will be required to submit to a drug and/or alcohol test whenever the City has reasonable suspicion to believe the employee or volunteer has used drugs and/or alcohol in violation of the City's Substance Abuse Policy or this policy.

Reasonable suspicion will exist when an employee's or volunteer's appearance, behavior, speech, or body odor indicates drug or alcohol use. Such indications must be personally observed and documented by at least one City supervisor who has received training on the manifestations of drug and alcohol use.

When an employee or volunteer is notified that reasonable suspicion exists for testing, he or she will be transported immediately by a City supervisor to the test site to be tested for drugs and/or alcohol. The City will make arrangements to transport the employee or volunteer home after the test. The employee or volunteer will not be allowed to drive home unless the test is completed and demonstrates conclusively that the employee or volunteer had not violated this policy.

An employee who is required to take a reasonable suspicion test will be considered at that time unqualified for work and will immediately be placed on administrative leave with pay pending the outcome of the test. If the test result is positive, the employee will not be paid for the period of the leave.

An employee or volunteer who refuses or fails to submit to a reasonable suspicion test, whose test is positive, or who intentionally obstructs the testing process will be subject to disciplinary action as outlined under **DISCIPLINARY ACTION** Section.

#### **Notice of Scheduled Testing**

- Employees and volunteers who, in the judgment of management, are under the impairment of drugs while at work or whose job performance is being adversely affected by the abuse of alcohol or drugs may be tested without notice.
- All applicants for employment who are offered a conditional offer of employment will be tested as part of the pre-employment process.
- All volunteers who are on probationary status and, if applicable, affiliates acting on behalf of a City Department will be tested.
- Employees who are required to submit to a drug or alcohol test will be required to submit to the test immediately upon notification by the Policy Administrator, or the Administrator's representative.

#### **Substance Covered by the Testing Program**

The City of Columbia City, Testing Program will determine the presence of the following substances in the body:

Amphetamines, Marijuana (THC), Cocaine, Ethanol (grain alcohol), Opiates (Morphine, Oxycodone, Hydromorphone), Phencyclidine, Barbiturates, Benzodiazepines, Codeine, Hydrocodone, Methadone, Methamphetamine, Methaqualone, Oxymorphone, and their metabolites.

#### **Drug Testing Procedures**

- Because of the consequences of positive test results on employees and volunteers, the City will employ a very accurate, two-stage Testing Program. Urine samples will be analyzed by a highly qualified independent laboratory which has been selected by the City. All samples will be tested according to the following sequence:
  1. All samples will first be subjected to an Enzyme Multiplied Immunoassay Test (EMIT) screening process.
  2. Those samples having a negative screen (no illegal or illicitly used substances present) will be considered to have "passed" the test and no further testing will be done on that sample.
  3. Those samples that test positive on the first screen will be tested more extensively by means of Gas Chromatography/Mass Spectrometry (GCMS).
  4. If the confirmatory GCMS test is negative, the sample will be considered to have passed and no further action will be taken.
  5. If the sample is confirmed positive by GCMS and reported as such by the Medical Review Officer (MRO), the applicant or employee is entitled to have the sample retested by a different NIDA laboratory. The retesting will be done at the individual's expense. If the applicant's retest is negative, a follow up test shall be required prior to employment.

6. If the sample is confirmed positive by GCMS and reported as such by the Medical Review Officer (MRO), applicants for employment will no longer be considered for employment, and existing employees will be subject to discipline or dismissal for failure to follow instructions. Volunteers with a confirmed positive GCMS sample shall be immediately removed from active member status and subject to the applicable department's disciplinary policy.
7. Eligible employees electing to enter a rehabilitation program must pass a drug and alcohol test before returning to their position. Employees failing this test will be terminated from employment. Employees returning from a rehabilitation program are subject to random testing, up to 6 times during the first year, and less frequently during the next 5 years.

### **Alcohol Testing Procedures**

A screening test is conducted first. Any employee testing positive for alcohol at a level of .02 or greater will be discharged. Employees testing less than .02 will be suspended one full shift without pay. Any volunteer testing positive for alcohol at a level of .02 or greater shall be immediately removed from active member status, subject to the applicable department policy. Any volunteer testing less than .02 will be subject to the applicable department's disciplinary policy and will not be eligible to participate in activities for the remainder of the month.

- The employee or volunteer and the breath alcohol technician (BAT) shall complete the alcohol testing form to ensure that the results are properly recorded.
- The confirmation test, if required, must be conducted using an Evidential breath testing (EBT) instrument that prints out the results, date and time, a sequential test number, and the name and the serial number of the EBT to ensure the reliability of the results.
- The confirmation tests results determine any action taken.
- Evidential breath testing (EBT) instruments will be used for confirmatory alcohol tests.
- Only instruments on the list of approved devices in the Federal Register will be used.
- Only Certified BAT (Breath Alcohol Technician) may administer the alcohol tests.

**Cancelled Test:** Urine specimens which the laboratory reports as unacceptable with regard to measured levels on creatinine, specific gravity or pH will be issued by the Medical Review Officer as a Cancelled Test. The City of Columbia City reserves the right to require the employee to provide another specimen for testing. The employee or volunteer will be notified of such and have the opportunity to have the Cancelled Test explained to him/her before recollection is scheduled.

### **TEST RESULTS**

#### **Drug Tests**

Before an employee's or volunteer's test results will be confirmed positive for drugs, the employee or volunteer will be given the opportunity to speak with the City's MRO and demonstrate a legitimate medical explanation for the positive result. If the MRO determines that a legitimate medical reason does exist, the test result will be reported to the City as "negative".

If the MRO determines that a legitimate medical reason does not exist, the test result will be reported to the City as "confirmed positive".

If the Employee's or Volunteer's primary specimen tests positive, the employee or volunteer will be notified by the City's MRO and advised that he or she has 72 hours to request in writing that the secondary specimen be sent to another NIDA certified laboratory for analysis. Pending the outcome of the additional analysis, the employee will be suspended without pay. Volunteers shall be immediately removed from active member status and subject to the applicable department disciplinary policy. If the final test result is negative, the employee will be paid for the period of the suspension.

### **Alcohol Tests**

Any employee testing positive for alcohol at a level of .02 or above will be discharged. Employees testing less than .02 will be suspended one full shift without pay. Any volunteer testing positive for alcohol at a level of .02 or greater shall be immediately removed from active member status, subject to the applicable department policy. Any volunteer testing less than .02 will be subject to the applicable department's disciplinary policy and will not be eligible to participate in activities for the remainder of the month.

Employees will be governed as outlined in the DISCIPLINARY ACTION Section below. Volunteers and their affiliates shall be subject to the applicable department's disciplinary procedures. Note: Additional Police and Fire Disciplinary Procedures are outlined in Section 8.4 of the Employee Policy Book as mandated by IC 36-8-3-4.

### **DISCIPLINARY ACTION**

1. Employees and applicants who refuse or fail to agree in writing to be tested for drugs and alcohol or to comply with the drug and alcohol testing procedures outlined above will be terminated or removed from the application process.
2. Employees and applicants who test positive for drugs in violation of this policy will be subject to the following disciplinary action.
  - a) An applicant whose test results under this policy are confirmed positive will be removed from the application process.
  - b) For the first confirmed positive drug test conducted under this policy, an employee will be: (1) suspended full shift without pay; (2) referred to the City's Employee Assistance Program (EAP) for counseling; (3) required to successfully complete the rehabilitation program outlined by the EAP counselor before returning to duty; (4) subject to additional discipline up to and including termination. The employee will be required to take another drug test before returning to duty; a positive return-to-duty test will result in immediate

termination. The employee will also be subject to additional follow up testing for up to 60 months following his or her return to work.

- c) For a second confirmed positive drug test, the employee will be discharged.
3. Employees who test positive for alcohol will be subject to the following disciplinary action.
- a) If an employee records a confirmed .02 or greater blood alcohol concentration (BAC) the employee will be discharged
  - b) Employees testing less than .02 will be (1) suspended one full shift without pay, - (2) referred to the City's Employee Assistance Program (EAP) for counseling; (3) required to successfully complete the rehabilitation program outlined by the EAP counselor; (4) subject to additional discipline up to and including termination. The employee will be required to take another alcohol test before returning to duty; a positive return-to-duty test will result in immediate termination. The employee will also be subject to additional follow up testing for up to 60 months following his or her return to work. Upon the EAP counselor's recommendation, the employee may be allowed to return to work prior to completion of the rehabilitation program, but failure to complete the program will result in termination.
  - c) Records of positive alcohol tests will be purged from the employee's file after five (5) years if no subsequent violations of any portion of this policy have occurred during that period.
4. For all other violations of this policy, disciplinary action will be determined on a case-by-case-basis.
5. All disciplinary action for police and fire employees will be administered in accordance with these rules and regulations and Indiana Code 36-8-3-4.
6. The Chief of Police, and/or the Fire Chief, and Human Resources Director will jointly determine whether disciplinary action is appropriate under the circumstances.

#### **PAYMENTS OF COSTS**

- The City will pay the costs for all initial and confirmatory drug and alcohol tests required by this policy.
- Employees are responsible for the costs of analyzing any secondary urine specimens requested under the terms of this policy. The City will reimburse the cost of the analysis of a secondary urine specimen only if the test results are negative.
- The City will pay the cost for all drug and alcohol counseling conducted under the City's EAP. Costs for counseling that continues after EAP benefits run out will be the responsibility of the employee.

- Employees who are terminated under the provisions of this policy will be responsible for the cost of any and all counseling that occurs after the termination date.

## **DRUG AND ALCOHOL INFORMATION**

The City will provide educational materials and training for all employees and volunteers explaining the City's drug and alcohol testing policies and procedures. Drivers will also be given an explanation of DOT requirements. In addition, the City will provide all employees with information concerning: (1) the effects of drugs and alcohol on an individual's health, work, and personal life; (2) the signs and symptoms of a drug or alcohol problem; (3) available methods of intervention when a problem does exist.

Each employee and volunteer is required to certify that he or she has been given a copy of this policy, as amended from time to time and other drug and alcohol information as outlined above. Employees or volunteers who refuse to execute the required certification will be subject to discipline up to and including termination. Applicants are required to execute the certification as a condition of being considered for employment or a department affiliate.

Any employee or volunteer who engages in any conduct prohibited under this policy will be provided with information concerning the resources available to evaluate and resolve a drug or alcohol problem and the names, addresses, and telephone numbers of substance abuse professional and counseling and treatment programs.

### **Consent**

Compliance with the City's Drug and Alcohol Policy and Testing Program is a condition of employment, volunteerism, and affiliation with a department. All applicants for employment and employees or volunteers subject to the Testing Program will be required to sign a consent form that waives any rights concerning confidentiality and acknowledges that the results of these tests will be discussed with appropriate members of management. Because the consent form is a part of Columbia City's Testing Program, its completion is also a condition of employment. Applicants for employment who refuse to sign the consent form will not be considered further for employment. Employees who refuse to sign the consent form will be terminated from employment. Volunteers who refuse to sign the consent form will no longer be eligible for active member status.

### **Changes or Modifications**

The City reserves the right to change the provisions of this Policy and Testing Program at any time in the future.

### **Federal Requirements**

Pursuant to 41 U.S.C. §701, each employee is hereby notified that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the workplace, therefore, employees found in violation will be subject to discipline or dismissal for failure to follow instructions.

Further, any employee or volunteer violating any Federal or State criminal drug statute shall notify the City of Columbia City within five (5) days of any conviction of such crime. Any employee convicted of any unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance will be subject to discipline or dismissal for conduct unbecoming an employee of the City of Columbia City.

Any employee or volunteer who is convicted of a Federal, State, or Local Drug Statute, shall notify the Clerk Treasurer and the Human Resources Director immediately. Any employee or volunteer who operates a City vehicle and who is convicted of a D.W.I., or whose driver's license is suspended for any reason shall notify the Clerk Treasurer, and the Human Resources Director, and the Department Head immediately.

### **Recordkeeping**

Employee records will be maintained, in keeping with federal regulations, by the City's drug and alcohol testing contracted services company. All Drug and Alcohol Program records require to be maintained by the City of Columbia City will be properly recorded and filed in the Human Resources Department.

### **Confidentiality**

Drug and alcohol screen test results shall be delivered to the Human Resources Director of the City of Columbia City who shall maintain them in the employee's or volunteer's medical file. The medical file shall be maintained in a secure fashion to prevent access thereto by persons without a legitimate need to review the file. The Human Resources Director may release drug and alcohol screen test results to the City's management-level personnel in order for them to accomplish the purposes of this Program. Drug and alcohol screen test results shall not be released or otherwise divulged to other persons or organizations without a court order, prior written approval of the City Attorney, or other appropriate legal process. An employee's or volunteer's drug and alcohol testing results will not be released to a subsequent employer without the employee's or volunteer's prior written consent.

### **General**

All pre-employment applicants who are offered a conditional offer of employment will receive a copy of this Program and sign a statement in recognition that the employee understands this Program agreement as will all volunteers. One copy will be returned to the employee upon employment (or returned to the volunteer) and the second copy will be put into the employee's personnel file (or the volunteer's file).

Failure to sign a release for alcohol and drug testing will be classified as insubordination and the employee shall be terminated from employment; the volunteer will be immediately removed from active member status.

Refusal to submit to alcohol and/or controlled substance testing, as required by the City of Columbia City's policy, will be recorded as a positive test and the employee may be subject to discipline or dismissal for failure to follow instructions. (Volunteers will be immediately removed from active member status) for failure to follow instructions. Refusal to submit to an alcohol or controlled substance test means that an employee or volunteer:



1. Fails to provide adequate breath for testing without valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with this policy.
2. Fails to provide adequate urine for controlled substance testing without a valid medical explanation after he or she has received notice of the requirement for testing in accordance with the policy.
3. Engages in conduct that clearly obstructs the testing process.