

CHAPTER 12 – DRUG AND ALCOHOL TESTING

12.1 Policy Statement.

12.1.1 Cedar City Corporation recognizes the importance of maintaining a safe and healthy work environment for the benefit of its employees, customers, and the public at large. It is the City’s policy that illegal drug use is not acceptable conduct. Employees found using illegal drugs on or off duty, or otherwise violating this policy, shall be subject to major disciplinary action as per this policy. Employees are also obligated to manage the use and possession of alcohol or legal drugs consistent with the law, safe and effective performance of their job, and the rules and policies contained herein.

Amended by Cedar City Ordinance No. 0608-2016

12.1.2 The following are strictly prohibited:

- A. Reporting for work under the influence of alcohol, illegal drugs, or legal drugs so as to adversely affect your working ability;
- B. Drinking or bringing alcoholic beverages on City premises or during work hours;
- C. The use, possession or trafficking of illegal drugs in any manner.

12.1.3 In order to enforce this policy, a supervisor/Department Head may ask an employee to submit to a drug and/or alcohol test pursuant to the Drug and Alcohol Testing Policy set forth below.

12.2 Definitions.

12.2.1 “Alcohol” means ethyl alcohol or ethanol.

12.2.2 “Drugs” means any substance recognized as a drug in the Utah Controlled Substances Act, United States Pharmacopeia, the National Formulary, the Homeopathic Pharmacopeia, or other drug Compendia, or a supplement to any of these.

12.2.3 “Sample” means urine, blood, breath, saliva, or hair.

12.3 Testing Policy.

12.3.1 It is the policy of the City to test employees and prospective employees for the

presence of drugs or alcohol according to the provisions set forth below, as a condition of hire or continued employment. Any employee or prospective employee failing or refusing to take the test will not be eligible for employment,

or if employed, may be subject to termination. The City shall consider as negative all confirmed positive drug and alcohol test results with a medically sufficient explanation.

12.4 Pre-employment Testing.

12.4.1 Cedar City shall conduct pre-employment drug and/or alcohol testing to detect those prospective employees who abuse drugs or alcohol. Testing will be done on all regular positions and those seasonal positions deemed appropriate by the Department Head and or Administrative Service Director. Pre-employment drug and/or alcohol testing shall employ the following procedure:

- A. The job announcement and application for employment shall contain a statement that a drug and/or alcohol test will be required before an employment offer will be extended; and
- B. A prospective employee should sign a pre-employment chemical screening test consent form.

12.5 Promotional Testing.

12.5.1 Applicants for promotion into safety-sensitive positions requiring a CDL will be required to undergo a drug and/or alcohol test before appointment. An applicant for such promotion should sign a promotional chemical screening test consent form.

12.6 Reasonable Suspicion Testing.

12.6.1 A supervisor/department head may require an employee to undergo drug and/or alcohol testing if there is “reasonable suspicion” to believe that an employee is under the influence of illegal drugs or alcohol at any time during work hours. “Reasonable Suspicion” means a clear belief based on specific facts that an employee is under the influence of drugs or alcohol. Circumstances which constitute a basis for determining “reasonable suspicion” may include, but are not limited to:

- A. A pattern of abnormal or erratic behavior;
- B. Information provided by a reliable credible source;

- C. A work-related accident;
- D. Direct observation of drug or alcohol abuse; or
- E. Presence of physical symptoms of drug or alcohol use.

12.6.2 Supervisors are required to set forth in writing the specific facts, symptoms or observation which form the basis for the determination that reasonable suspicion exists in order to warrant the testing of an employee.

12.7 Random Testing.

12.7.1 Cedar City will perform unannounced, mandatory testing of all regular positions. Such testing shall be performed in accordance with U.S. Department of Transportation (DOT) and Federal Highway Administration (FHWA) Rules and Regulations. Any positive test results of an individual shall be dealt with in accordance with said rules and regulations.

12.8 Post-Accident Testing.

12.8.1 Post-accident testing shall be performed on drivers whose performance could have contributed to the accident i.e. cited for a moving traffic violation), and for any fatal accident. Such testing shall be performed in accordance with DOT and FHWA Rule and Regulations. Any positive test results of an individual performing a safety-sensitive function.

12.9 Return to Duty Test.

12.9.1 When an individual has violated standards herein, and returns to performing safety-sensitive duties, six unannounced tests shall be performed in the first twelve months after a driver returns to duty. Such testing may be extended for up to 60 months. Such testing shall be performed with DOT and FHWA Rules and Regulations. Any positive test results of an individual performing a safety-sensitive function shall be dealt with in accordance with said rules and regulations.

12.10 Drug and Alcohol Testing Provisions.

12.10.1 Prior to administering a drug or alcohol test, employees will be asked to sign a consent form authorizing the test and permitting the release of the test results to the appropriate City Officials. An employee who refuses to sign a consent form when reasonable suspicion of drug or alcohol use has been identified is subject to

disciplinary action up to and including termination of employment.

Amended by Resolution No. 11-0309-1.

12.10.2 Any drug or alcohol testing shall occur during or immediately after the regular work hours and shall be deemed work time for purposes of compensation. The City shall pay the cost of any initial test for drugs or alcohol required, including the cost of transportation.

12.10.3 Any sample collection and testing of individuals in safety-sensitive positions shall be conducted in accordance with DOT and FHWA Rules and Regulations. All sample collection and testing for drug and/or alcohol shall be performed at the appropriate location and in accordance with the following conditions:

- A. The collection of samples shall be performed in a reasonable sanitary condition;
- B. Samples shall be collected and tested with due regard to the individual being tested, in a manner reasonably calculated to prevent substitutions or interference with the collection or testing of reliable samples;
- C. Sample collection shall be documented, and the documentation procedure shall include:
 - i. Labeling of samples as to reasonably preclude the probability of erroneous identification of test results; and
 - ii. An opportunity for the employee to provide notification of any information which the employee considers relevant to the test, including identification of currently or recently used prescription or non-prescription drugs, or other relevant medical information;
- D. Sample collection, storage and transportation to the place of testing shall be performed so as to reasonably preclude the probability of sample contamination or adulteration; and
- E. Sample testing shall conform to scientifically accepted analytical methods and procedures (such testing shall include gas chromatography, gas chromatography-mass spectroscopy, or other comparably reliable analytical method).

12.10.4 Upon receipt of a positive drug or alcohol test result which indicates a violation of

this written policy, or upon the refusal of an employee to provide a sample, the City may use that test result or refusal as the basis for disciplinary action, which may include the following:

- A. A requirement that the employee enroll in an employer-approved rehabilitation, treatment or counseling program which may include additional drug or alcohol testing as a condition of continued employment;
- B. Suspension of the employee without pay for a period of time;
- C. Termination of employment;
- D. Other disciplinary measures in conformance with usual procedures.

12.10.5

All information, interviews, reports, statements, memoranda or test results received by the City through this drug and alcohol testing program are confidential communications and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceeding, except in a proceeding related to the action taken by the City set forth in the preceding paragraph. All information obtained shall be the property of the City, and the City is entitled to use a drug and alcohol test as a basis for action under the preceding paragraph.