RESOLUTION NO. 139-16

A RESOLUTION MODIFYING THE DRUG-FREE WORKPLACE POLICY AND PROCEDURES FOR THE CITY OF MEDINA, AND DECLARING AN EMERGENCY.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

SEC. 1: That the Drug-Free Workplace Policy and Procedures for the City of Medina is hereby modified as set forth in Exhibit A, attached hereto and incorporated hereto.

SEC. 2: That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

SEC. 3: That this Ordinance shall be considered an emergency measure necessary for the immediate preservation of the public peace, health and safety, and for the further reason to reach the new 15% random testing requirement prior to the end of the year; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and signature by the Mayor.

PASSED: **October 11, 2016**

SIGNED: **John M. Coyne, III**
President of Council

ATTEST: **Kathy Patton**
Clerk of Council

APPROVED: **October 12, 2016**

SIGNED: **Dennis Hanwell**
Mayor

Effective date: October 12, 2016

City of Medina

Drug-Free Workplace

Policy and Procedures

Policy Summary

Contacts:	Questions about this policy should be directed to: **Administrative Office Manager or Civil Service Secretary**
Who will be tested?	All employees and qualified applicants
What will be tested?	Employees will be tested for the presence of illicit or illegally used drugs and alcohol. Drugs to be tested may include: amphetamines, cocaine, marijuana, opiates, and PCP.
Where will testing be conducted?	Only DHHS/SAMHSA certified laboratories and qualified service professionals shall conduct urine specimen analysis under this policy. Alcohol testing shall be done at a qualified health care facility using federally approved testing equipment.
When will tests be performed?	Employees will be tested on five specified occasions: 1. Pre-employment (drug test for "qualified applicants" only). 2. New Hires (within 90 days) 3. Where there is reasonable suspicion of prohibited substance use. 4. Following an accident or injury. 5. On a random basis (safety-sensitive employees only).
How will tests be conducted?	Unless otherwise required or permitted by law, all tests will be conducted in accordance with federal guidelines (49 CFR Part 40 as amended), which conform to the Ohio Bureau of Workers' Compensation drug-free testing requirements.
Employee Assistance Program:	The City encourages all those in need of assistance with a substance abuse issue to seek help. **The Administrative Office Manager or the Civil Service Secretary** shall maintain information regarding local service providers.
Consequences:	Any violation of this policy will result in termination. Any **refusal** to submit to testing or any attempt to adulterate a sample **will** result in termination.

Drug and Alcohol use at work *are prohibited.*

You Will Be Fired!

WARNING: ANY POSITIVE RESULT OR ANY REFUSAL TO TEST MAY AFFECT YOUR ELIGIBILITY FOR COMPENSATION AND BENEFITS UNDER THE WORKERS COMPENSATION LAWS OF THIS STATE.

POLICY

The employees of **City of Medina** ("the City") are our most valuable resource, and for that reason, their health and safety are of paramount concern. The City takes considerable pride in the work performed by its employees. While the City has the greatest respect for the privacy of its employees, it must be understood that the City will not tolerate any alcohol and/or drug abuse. Such negligence threatens the ability of our employees to maintain a safe, healthful, and efficient environment, which enhances the welfare of our employees.

The City believes that it is very important to provide a safe workplace for all of its employees. In certain aspects of operations the City is required to comply with the rules of the Ohio Bureau of Workers' Compensation (BWC) Drug-Free Workplace Program (DFWP). In so doing, the City is taking steps to address the problem of substance use that negatively affects every workplace, including ours. The City is concerned with the health and well being of all employees. We can not condone and will not tolerate behaviors on the part of employees that relate to substance use, such as:

- the use of illegal drugs;
- the misuse of alcohol;
- the sale, purchase, transfer, manufacture, use or possession of any illegal drugs;
- Arrival or return to work after having used any drug or alcohol or being under the influence of any drug (legal or illegal) or alcohol to the extent that job performance is affected.

Management is fully committed to the City's *Drug-Free Workplace Program,* which establishes clear guidelines for acceptable and unacceptable employee behavior for everyone in the workplace. We will not tolerate substance use in violation of this policy and intend to hold everyone responsible for supporting the policy.

The consequences stated in this *Drug-Free Workplace Policy* will apply to anyone who violates the policy.

The City will hold all employees accountable in terms of substance use but also supports getting help for employees in need. Employees who come forward *voluntarily* to identify that they have a substance problem will receive information about local professionals who offer such help. However, if an employee has a substance problem and does not come forward, and the employee then tests positive for drug or alcohol use in violation of this policy, the City reserves the right to impose discipline for the violation of these work rules as set forth in this policy.

WARNING: ANY POSITIVE RESULT OR ANY REFUSAL TO TEST MAY AFFECT YOUR ELIGIBILITY FOR COMPENSATION AND BENEFITS UNDER THE WORKERS COMPENSATION LAWS OF THIS STATE.

Other consequences that apply to all employees who violate this policy are clearly spelled out within this document. **PLEASE READ THIS POLICY CAREFULLY.**
This program will go into effect within 30 days of the announcement of our *Drug-Free Workplace Program* and this new policy that describes the *Drug-Free Workplace Program.* This policy covers the five key parts of the City's *Drug-Free Workplace Program.* The five parts consist of:

1. A written policy that clearly spells out the program and how everyone benefits.
2. Annual substance awareness education for all employees.
3. Training for supervisors regarding their responsibilities.
4. Drug and alcohol testing, the most effective way to change harmful substance use behaviors.
5. Employee assistance.

Employees will have the opportunity to receive information about substance use as a workplace problem, signs and symptoms, dangers of use, and how and where to get help for themselves and their families. **The Administrative Office Manager or Civil Service Secretary** will be the Drug-Free Workplace Program Administrators (herein referred to as the Program Administrators) so everyone knows who to go to for information or help. For information please call **(330) 725-8861**.

The Program Administrators will be responsible for coordinating drug and alcohol testing, identifying resources that employees can turn to for help for themselves and/or their families, and arranging for qualified people to help with employee awareness education and with supervisor training.

Conditions of Employment

Compliance with the Alcohol and Drug Free Workplace Policy is a condition of employment with the City. Failure to cooperate fully, sign any required documents, submit to any inspection or test, or follow any prescribed course of substance or alcohol abuse treatment will result in termination of employment.

Nothing in this policy or in any oral representation by any City representative related to any aspect of this policy is intended to alter the existing relationship between the City and any employee and is not intended to create an express or implied contract of employment, or any promise of job security upon which an employee can rely.

Unless otherwise specified, all employment relations with the City remain "at will."

Those employees represented by a collective bargaining agent shall enjoy their rights as specified in the current collective bargaining agreement. To the extent that the current collective bargaining agreement is in conflict with the requirements of the BWC the collective bargaining agreement shall govern.

Program Protection

This program is designed to protect employees' rights and to protect all who come in contact with this workplace from the behaviors of substance users. Some of the protections built into the program are:

- Employee records such as testing results and referrals for help will be kept confidential. Information will be on a need-to-know basis. Any violation of confidentiality rights is subject to disciplinary action up to and including termination of employment.

- We are committed to employees who have a substance problem to get help. Each situation will be reviewed individually. Employee assistance information is available for employees and their families, including a list of resources available through the Program Administrators and distributed to all employees.

- All supervisors will be trained in their duties related to testing before this program begins.

Employees will receive substance awareness education from a qualified person to help identify problems and learn where to turn to for help. This will be done annually.

Test Procedures

Testing will be done through a qualified collection provider and through a federally certified laboratory that uses the highest level of care in ensuring that results are accurate. When properly conducted, this process is considered scientifically accurate in detecting that the substances that the City is concerned about are present in the employee's "system" in sufficient quantity to lead to behaviors that may endanger the person or other employees. The certified lab will work closely with our local collection provider to ensure fairness and accuracy, and we also have retained the services of a Medical Review Officer (MRO), who is a qualified, trained physician responsible for checking whether there is a valid medical reason for the presence of the substance in the employee's system. The MRO is experienced in dealing with substance use. When the MRO receives positive test results, the MRO will contact the employee and, with the employee's permission, any appropriate health care provider to determine whether there is a valid reason for the presence of the drug in the person's system.

- The testing program consists of an initial screening test whenever a test is determined to be appropriate. If the initial results are positive, then a second test is used. Cut-off levels for each drug and for alcohol are established based on federal guidelines.

An employee's violation of this policy will not be reported to law enforcement unless required by a regulatory body or by criminal statute, such as related to drug trafficking. However, in protection of the workforce, law enforcement may be requested to come onto City property in conjunction with a referral for criminal prosecution.

Employee Awareness Education

Every current employee will be required to attend a session in which this program is discussed. There will be an opportunity to ask questions. This written policy will be shared, and everyone will be expected to sign an acknowledgement of receipt. We will have a qualified person explain why and how substance use is a workplace problem, the effects, signs/symptoms of use, effects of commonly used drugs in the workplace, and how to get help. We will also cover how an employee can get a referral for employee assistance, the importance of determining how much of a substance problem the employee has, and what type of help is needed. There will be educational awareness annually for all employees. New employees will hear about the program during orientation and will receive substance education as soon as possible thereafter.

Bureau of Workers' Compensation 10-Step Business Plan

As part of its Drug-Free Workplace Program, the City will be putting into place a safety plan sponsored by the Bureau of Workers' Compensation known as the 10-Step Business Plan. This plan is aimed at creating an overall safer workplace. More information about this 10-Step Plan will be communicated to all employees.

Supervisory Training

As required by the rules set by the *Bureau of Workers Compensation* (BWC) Drug-Free Workplace Program, supervisors will be trained to recognize substance problems that may endanger the employee and others as well as violate this policy. This training is in addition to annual employee education. Supervisors will be trained about testing responsibilities, how to recognize behaviors that demonstrate an alcohol/drug problem and how to make referrals for help.

Testing

Testing is intended to detect problems, deter usage and allow appropriate corrective and/or disciplinary action. In addition to alcohol, the drugs that we may test for are:

- Amphetamines (speed, uppers)
- Cocaine (including Crack)
- Marijuana
- Opiates (Codeine, Heroin, Morphine)
- Phencyclidine (PCP, "angel dust")
- Barbiturates
- Benzodiazepines
- Propoxyphene/Metabolite
- Methadone

(Ord. 56-08)

Prescriptions and OTC

The City does not prohibit employees from using prescription or over-the-counter drugs when used as prescribed, provided:

- the prescription drugs are prescribed to the employees for medical reasons by a licensed medical practitioner, with dosage and frequency of use prescribed on the label or accompanying documentation, and

- the employee's use of the prescription or over-the-counter drugs does not affect the employee's job performance or conduct; threaten the safety, productivity, public image or property of the City or its employees; or result in criminal behavior.

No employee is to perform any function or duty on behalf of the City if the drugs being taken under this provision adversely affect his or her ability to perform any such function or duty safely.

Employee Assistance

The City believes in offering useful information to assist employees with a substance problem. We are supportive of employees taking action on their own behalf to address a substance problem. The City will make information regarding local substance abuse resources available to any employee in need of assistance. Please contact your supervisor for such information.

BE FOREWARNED, however that any employee found to be in violation of this policy will be terminated.

The implementation of discipline or of sanctions shall be at the sole discretion of the City and/or in accordance with the authority provided in the current collective bargaining agreement.

WHEN TESTING WILL OCCUR

Pre-Employment

As a condition of employment, all candidates being considered for employment with the City must satisfactorily complete a pre-employment drug screen prior to reporting to duty. Any offer of employment is contingent upon, among other things, satisfactory completion of this screening, and the determination by the City that the applicant is capable of performing the responsibilities of the position that has been offered. Persons who have been separated from City employment for more than 180 days must undergo pre-employment testing (Ord. 165-02). (Ord. 53-11).

New Hires

All newly hired employees serve a 90-day probationary period during which time an *unannounced* drug test **may** take place. Anyone failing or refusing to submit to such test will be considered to have failed a pre-requisite of their probation and be terminated for cause. (Ord. 56-08)

Newly hired employees will attend orientation; during this session they will receive a current copy of the City's *Drug- Free Workplace Policy*, and sign the form entitled, *Acknowledgement of Receipt*

Reasonable Suspicion

Reasonable suspicion testing will occur when City management and/or supervision have reason to suspect that an employee may be in violation of this policy. The suspicion must be documented in writing within 24 hours of the event or prior to the release of the test findings. Reasonable suspicion testing may be based upon, among other things:

1. Observed behavior, such as direct observation of drug/alcohol use or possession and/or the physical symptoms of drug and/or alcohol use;

2. A pattern of abnormal conduct or erratic behavior;

3. Arrest or conviction for a drug-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking. The employee is responsible for notification to the City, within five (5) working days, of any drug-related conviction;

4. Information provided either by a reliable and/or credible sources or independently corroborated, regarding an employee's substance use; or

5. Newly discovered evidence that the employee has tampered with a previous drug or alcohol test.

Reasonable suspicion testing does not require certainty, but mere "hunches" are not sufficient to justify testing. To prevent this, all supervisors will be trained in the recognition of drug and alcohol-related signs and symptoms. Testing may be for drugs or alcohol or both.

Prior to testing and provided consent is given by the employee, those individuals represented by a collective bargaining agent shall be allowed an opportunity to contact their representative and to consult with that representative in private. No more than one hour shall be allowed for this process. In all respects not in conflict with the requirements of the BWC rules, THE TERMS OF THE CURRENT COLLECTIVE BARGAINING AGREEMENT shall be abided by.

Post-Accident Testing

Post-accident testing will be conducted whenever an accident occurs as defined below. For purposes of this policy, an accident is considered an unplanned, unexpected or unintended event that occurs on City property, during the conduct of the City's business, during working hours, or which involves City-supplied equipment, motor vehicles or motor vehicles that are used in conducting City business, or is within the scope of employment, and which results in any of the following:

1. A fatality of anyone involved in the accident;
2. Vehicular/equipment damage in apparent excess of $500; or
3. Non-vehicular/equipment damage in apparent excess of $500;
4. Bodily injury to the employee and/or another person that requires off-site medical attention away from the City's place of employment.

When such an accident results in one of the situations above, any employee who may have contributed to the accident will be tested for drugs and/or alcohol use.

WARNING: IF AT THE TIME OF ANY POST-ACCIDENT/INJURY TEST THERE WAS REASONABLE CAUSE TO BELIEVE THE EMPLOYEE USED A PROHIBITED SUBSTANCE OR WAS UNDER THE INFLUENCE OF SUCH SUBSTANCES, AND THE TEST RESULT IS POSITIVE OR THE EMPLOYEE REFUSED TO TEST, ELIGIBILITY FOR COMPENSATION AND BENEFITS UNDER THE WORKERS COMPENSATION LAWS OF THIS STATE MAY BE AFFECTED.

Post-Accident Test Timing

Urine specimen collection (for a drug test) or breath/saliva (for an alcohol test) is to occur immediately after a need has been determined. At no time shall a drug specimen be collected after 32 hours from the time of an employment-related incident. Breath or saliva alcohol testing will be performed within two (2) hours of the incident whenever possible, but within eight (8) hours, or it won't be performed but the reason for the delay will be documented. If the employee responsible for an employment-related accident is injured, it is a condition of employment that the employee herein expressly grants to the City, its officers and management, the right to request that attending medical personnel obtain appropriate specimens (breath, blood and/or urine) for the purpose of conducting alcohol and/or drug testing. Further, all employees herein expressly grant to the City, its officers and management, access to any and all other medical information that may be relevant in conducting a complete and thorough investigation of the employment-related accident, to include, but not be limited to, a full medical report from the examining physician(s) or other health care providers.

Random Testing

Random testing may be conducted as required by contract and at the sole discretion of management. If conducted, random testing will include all safety sensitive employees performing work under any state contract and is conducted on an unannounced basis. An independent, non-City testing organization will utilize objective computer software that ensures a truly random selection process in which all employees in the testing pool have an equal statistical likelihood of

being selected for testing. When the next random draw is conducted, all employees are again included in the pool with an equal chance of selection, regardless of whether an employee was previously selected.

Random selection shall be at the annual rate of 15% of those subject to testing. (Ord. 139-16)

The City will provide employee identification numbers to be used in the random selection drawing. The contractor will, in turn, furnish the City with a list of individuals to be tested at the beginning of each selection period. It shall be the responsibility of the City to notify each employee who was selected with the date, time and location for that random test. Once the employee is notified of the selection to submit to random testing, it shall be the responsibility of the employee to appear for testing immediately and to provide a urine specimen for drug testing and or submit to breath-alcohol testing.

An employee's failure to timely comply with the request for a specimen for random testing will be considered a refusal to submit to testing and may result in termination of employment.

Searches for Controlled Substance and Alcohol

In order to maintain a safe, healthy, and productive workplace environment, the City may conduct searches for controlled substances or alcohol on City property or in City vehicles and equipment at any time. The City is "owned by" and operated for the residents of the City of Medina; therefore, everything about the City is public. All employees shall have no expectation of privacy in any public property while at work. The City may search an employee's desk, locker, file cabinet, and a City owned or operated vehicle. Due to the safety sensitive nature of some employee's jobs, the City may search private items brought to work.* Searches of these employees' private items may include such items as lunch boxes, coolers, purses, packages, briefcases and similar items. Should the City have reasonable suspicion that an employee is in violation of this Substance Abuse Policy, the suspect employee's private property may also be searched, regardless whether the employee performs a safety sensitive job.

To avoid unintentional violation of this policy it is suggested that City employees NOT BRING ANYTHING TO WORK that they do not want SEARCHED.

** This category of personnel includes police personnel, fire department personnel, motor equipment operators (MEO's) and all other City employees who operate City vehicles or motorized equipment.*

SUBSTANCES TESTED AND METHOD OF TESTING

Drug Test Methods

"*Systems presence testing*" is the procedure that is used to identify the presence of the following controlled substances or alcohol that may be present: (A negative initial screening test is considered a negative test.) For each of the tested drugs (amphetamines, cocaine, marijuana, opiates, PCP, barbiturates, benzodiazepines, propoxyphene/metabolite, and methadone), there is an initial test used to screen the urine specimen. (Ord. 56-08)

If the initial screen is positive [at or higher than a cut-off level in accordance with federal Department of Health & Human Services (DHHS)], a second or confirmatory test is done. This is a different test

and is considered scientifically accurate. Detection thresholds (or cut-off levels) are standards that have been established by the DHHS for each of the above drugs after years of research. These levels will be used to interpret all drug screens/tests, whether for a pre-employment examination, reasonable suspicion test, post-accident test, random or follow up test.

Alcohol Test Methods

A testing contractor that uses only federally qualified equipment and personnel will conduct breath alcohol and/or saliva testing. Breath alcohol concentrations exceeding 0.02 will be considered a verified positive result. In the event of an accident where an employee has a "whole blood" alcohol drawn at a medical treatment facility, a result equal to or greater than 0.02 shall be considered to be a verified positive result. An Evidentiary Breath Test (EBT) is used to confirm any initial positive test result. Any employee testing at or above 0.02, but less than 0.04, will be removed from any safety-sensitive position and will be subject to the discipline specified below. (See, CONSEQUENCES).

WARNING: ANY POSITIVE ALCOHOL TEST RESULT AT OR ABOVE 0.08 OR ANY REFUSAL TO TEST MAY AFFECT YOUR ELIGIBILITY FOR COMPENSATION AND BENEFITS UNDER THE WORKERS COMPENSATION LAWS OF THIS STATE.

The City also expressly reserves the right to add or delete substances on the list above, especially if mandated by changes in existing Federal, State or local regulations or legislation.

If or where the City specifically authorizes the use of alcohol at a City sponsored event(s) NO ONE may consume to excess.

Specimen Collection Procedure

Trained collection personnel, who meet quality assurance and chain-of-custody requirements for urine collection and breath-alcohol testing, shall conduct testing. Confidentiality is required from all service providers. Any individual subject to testing under this policy shall be permitted to provide urine specimens in private, but subject to strict scrutiny by collection personnel so as to avoid any adulteration or substitution of the specimen to be provided.

Breath alcohol testing will likewise be done in an area that affords the individual privacy. In all cases, there will only be one individual tested at a time. Failure to appear for testing when scheduled shall be considered refusal to participate in testing, and will result in termination. (For an applicant, failure to appear will result in withdrawal of any offer of employment).

Review of Test Results

To ensure that every employee who is subjected to drug and alcohol testing by the City is treated in a fair and impartial manner, the City has hired a Medical Review Officer ("MRO"). The MRO is a medical doctor or doctor of osteopathic medicine with a specialized knowledge of substance abuse disorders. The MRO will be able to determine whether there are any valid reasons for the presence in the employee's system of the substance that was tested positive.

Consequences

WARNING: ANY POSITIVE RESULT OR ANY REFUSAL TO TEST MAY AFFECT YOUR ELIGIBILITY FOR COMPENSATION AND BENEFITS UNDER THE WORKERS COMPENSATION LAWS OF THIS STATE.

ALCOHOL USE: Alcohol positive at or *above* **0.02:** Termination.

Any alcohol positive in excess of 0.08 could affect your eligibility and/or result in a loss of compensation and benefits under this state's workers compensation laws.

***DRUG USE*: Any reported, confirmed result for the presence of any prohibited controlled substance WILL, THE FIRST TIME, RESULT IN TERMINATION.**

Refusal: Any refusal to submit to testing, failure to cooperate with the test process or any attempt to adulterate a sample may result in termination of employment and may affect eligibility for compensation and benefits under the state's workers compensation laws. (Ord. 140-11)

Rights of Employees with Initial Positive Test Result

An employee who tests positive under this policy will be given an opportunity to explain, in confidence, the findings to the MRO prior to the issuance of a positive test result to the City. Upon receipt of a confirmed positive finding, the MRO will attempt to contact the employee by telephone or in person. If contact is made by the MRO, the employee will be informed of the positive finding and given an opportunity to rebut or explain the findings. The MRO can request information on recent medical history and on medications taken within the last thirty days by the employee. If the MRO finds support in the explanation offered by the employee, the employee may be asked to provide documentary evidence to support the employee's position (for example, the names of treating physicians, pharmacies where prescriptions have been filled, etc.). A failure on the part of the employee to provide such documentary evidence will result in the issuance of a positive report by the MRO with no attendant medical explanation.

If the employee fails to contact the MRO as instructed, the employee will be considered to have waived the right to do so and/or to have failed to cooperate in the test process. The MRO will issue an appropriate (positive/confirmed adulteration, etc.) report to the City.

Requirements for Notification of Drug or Alcohol Arrest and/or Conviction

Employees are required to notify their Supervisor or the Law Director of any criminal drug and/or alcohol arrest or conviction within five (5) days after such incident. Employees who are convicted are subject to immediate termination, but first time offenders who are full-time employees convicted of drug or alcohol offenses for acts which did not occur on City time, on City premises or in City vehicles or equipment may be eligible for reinstatement after successful completion of an approved substance abuse evaluation/rehabilitation program. Reinstatement will require, at a minimum, that the employee 1) undergo a return-to-duty test for controlled substances, 2) agree to continue in any after-care program recommended by the employee's treating professionals and 3) be subject to periodic unannounced follow-up testing for a period of twenty-four (24) months following the return to work.

Employees who fail to comply with the notice requirements of this policy are subject to discipline, including but not limited to, termination.

Reporting Results

All test results (positive, negative, adulterated) will be reported directly to the MRO by the laboratory prior to the results being issued to the City. Each substance tested for will be listed along with the results of the testing. The City will receive a summary report, and this report will indicate that the employee passed or failed the test. All of these procedures are intended to be consistent with the most current guidelines for Medical Review Officers, published by the federal DHHS.

Storage of Test Results and Right to Review Test Results

All records of drug/alcohol testing will be stored separately and apart from the employee's general personnel documents. These records shall be maintained under lock and key at all times. Access is limited to designated City officials on a "*need to know*" basis. The information contained in these files shall be utilized only to properly administer this policy and provided to certifying agencies for review as required by Law. Those designated City officials that shall have access to these records are charged with the responsibility of maintaining the confidentiality of these records. Any breach of

confidentiality with regard to these records may be an offense resulting in termination of employment. Any employees tested under this policy have the right to review and/or receive a copy of their respective test results. An employee may request from the Drug-Free Workplace Program Administrators, in writing, with a duly notarized Employee Request for Release of Drug Tests Results form, that a copy of the test be provided. The City will use its best efforts to promptly comply with this request and will issue to the employee a copy of the results personally or by U.S. Certified Mail, Return Receipt Requested.

Positive Test Results

Employees who are found to have a confirmed positive drug or alcohol test will be immediately taken off safety-sensitive duties and are subject to the consequences as set forth in this policy.

Termination Notices

In those cases where testing results in the termination of employment, all termination notices will list "misconduct" as the reason. Termination shall be deemed "for cause."

RESERVATION OF RIGHTS

City of Medina reserves the right to interpret, change or rescind this policy in whole or in part at any time with or without notice. In addition, changes to applicable federal, state or local laws or regulations are deemed to be adopted whether specifically stated in this policy or not. As noted above, this policy and any oral representation related to it do not create a binding employment contract of any kind or any promise of job security upon which an employee should rely other than as currently provided in an existing city-employee relationship.

APPENDIX

Appendix 1:	**Definitions**
Appendix 2:	**Drug and Alcohol Terminology**
Appendix 3:	**Notification of Testing**
Appendix 4:	**Acknowledgement of Receipt**
Appendix 5:	**Drug and Alcohol Testing Procedure for Commercial Drivers**

APPENDIX 1
Definitions

The following definitions shall apply to the interpretation and enforcement of this policy. Where any conflict occurs between this policy and state law, state law shall govern.

Glossary of Acronyms

ADA Americans with Disabilities Act
ADAMH Alcohol, Drug Addiction and Mental Health Services Board (Ohio)
ADAS Alcohol and Drug Addiction Services Board (Ohio)
AOD Alcohol and Other Drugs
BAC Blood Alcohol Content
BWC (Ohio) Bureau of Workers 'Compensation
CADCA Community Anti-Drug Coalition of America
CAP College of American Pathologists
CCDCIII Certified Chemical Dependency Counselor
CEAP Certified Employee Assistance Professional
DHHS U.S.Department of Health and Human Services
DOT U.S.Department of Transportation
EAP Employee Assistance Program
FMCSA Federal Motor Carrier Safety Administration
5-Panel A drug test covering five drugs (required by DOT/FMCSA)
GC Gas Chromatography (part of confirmatory drug test)
MCO Managed Care Organization
MRO Medical Review Officer
MS Mass Spectrometry (part of confirmatory drug test)
NCADI National Clearinghouse of Alcohol and Drug Information
NHTSA National Highway Traffic Safety Administration
NIDA National Institute on Drug Abuse (now SAMHSA)
OBWC Ohio Bureau of Workers 'Compensation
OCPS 1 and Ohio Certified Prevention Specialist
ODADAS Ohio Department of Alcohol and Drug Addiction Services
OTC Over-The-Counter medications
SAMHSA Substance Abuse and Mental Health Services Administration
SAP Substance Abuse Professional
9-Panel A drug test covering nine drugs
TPA Third Party Administrator

APPENDIX 2
Drug and Alcohol Testing Terminology

Accident - an incident or injury which occurs on City property, on City business, or during working hours, or which involves City-supplied motor vehicles/equipment or motor vehicle/equipment being used for City purposes and which results in any of the following:

1. a fatality;
2. bodily injury requiring medical attention beyond first aid and administered within 32 hours of the incident;
3. vehicular and/or equipment damage in apparent excess of $750.00, or non-vehicular property damage in apparent excess of $500.00.

NOTE: A post-accident drug and/or alcohol test should be administered as soon as possible after necessary medical attention is administered; preferably within 2 hours for alcohol and 24 hours for drug.

Air blanks -A quality assurance test administered on an EBT to ensure that the machine is testing accurately.

Alcohol concentration -The amount of alcohol in an individual's breath, measured in grams per 210 liters of breath.

Alcohol test – a test used to detect the content level of alcohol in the blood (BAC). This may be performed by using federally authorized testing equipment such as breath or saliva test with an evidentiary breath testing device (EBT) applied for confirmation, or this level can be determined through a blood test.

Breath alcohol technician (BAT) -The only technician who can conduct a breath alcohol test for the Bureau's DFWP Program. To be classified a BAT, an individual is required to complete training and proficiency requirements outlined by the federal government.

Chain of custody -The protocol followed when submitting specimens for drug testing. It assures that there is no opportunity for contamination or switching of samples. Elements include signed and witnessed forms, sealed and initialed containers, and couriers requiring a receipt.

Collection site -A place where individuals provide specimens of their urine to be analyzed for the presence of drugs, or breath, saliva or (on rare occasion) blood to be analyzed for the presence of alcohol. This site may or may not be owned and/or operated by the laboratory that actually analyzes the specimen.

Collection site person - Only those individuals qualified in accordance with federal guidelines (49 CFR Part 40) shall be permitted to administer a drug test collection under this policy unless otherwise specified.

City property or premises – including buildings, offices, warehouses, plants, facilities, land, equipment, vehicles which are owned/leased/used for City business and parking lots owned/utilized by the City or any customers or supplier of the City. It also includes any other site at which the City business is transacted whether on or away from the City's property.

Confirmatory test -When testing for drugs, this is the second analytical procedure to confirm the presence of a specific drug/metabolite in a urine specimen. This procedure uses a more sophisticated technique (e.g., GC/MS, EBT) to ensure reliability and accuracy. With breath testing for alcohol, the confirmatory test is conducted on an EBT which has the capability to print out the results, date and time, a sequential test number, and the name and serial number of the testing device.

Cut-off level -A pre-determined amount of drug metabolite, measured in nanograms (ng) per milliliter (ml) of urine, which constitutes whether a tested specimen is negative or positive. For example, a test would be declared positive if the amount of drug/metabolite were equal to or above the cut-off level. Employers typically choose levels that have been adopted and tested by a recognized authority such as the Department of Health and Human Services (DHHS) or, for drugs other than the "DOT 5," are recommended by their DHHS-certified laboratory.

DHHS (also referred to as NIDA or SAMHSA) -certified laboratory -A drug testing facility, which is certified and closely monitored by the DHHS. To obtain and maintain certification, a laboratory must undergo extensive performance testing and on-site inspections.

Drug metabolite -The specific substance produced when the body breaks down a given drug as it passes through the body and is excreted in the urine.

Drug test – Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (DHHS) as being certified to meet 29 CFR Part 40 requirements. The test will analyze the amount of drug/metabolite present compared to the established guidelines adopted by the Department of Health and Human Services (DHHS). Thresholds shall be established by the chosen laboratory in accordance with appropriate scientific standards. Both a screening test and a confirmation must be used to establish a positive test result. (Ord. 156-10)

Evidentiary breath testing devices (EBT) -Instruments used to measure the amount of alcohol in an individual's system. In DOT/FMCSA-mandated alcohol testing, these instruments are approved by the federal government and operated by trained and certified technicians. The DFWP Program is modeled on the federal programs in terms of procedures.

Enzyme multiplied immunoassay technique (EMIT) -A preliminary screening test performed on a urine specimen to identify the presence of a drug/metabolite in an individual's system. If this test is positive, while accurate, a second and more sophisticated analysis is conducted to confirm which drug/metabolites are present and in what quantity.

Gas Chromatography/Mass Spectrometry (GC/MS) -A state-of-the-art test used to confirm the presence and amount of an identified drug/metabolite in a urine specimen.

Laboratory -Facility where a urine specimen is analyzed for the presence of drugs/metabolites. The specimen is typically not collected at this facility, but rather at a designated collection site that then ensures timely transport of the specimen to the laboratory.

Medical Review Officer (MRO) -A licensed physician responsible for receiving laboratory results and determining if there is a medical explanation for the presence of drugs/metabolites in the donor's urine. This physician must be qualified in accordance with federal guidelines (49 CFR Part 40) and have knowledge of substance use disorders and appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history and any other relevant medical information.

On the job – during working hours, while performing work duties, while acting within the scope of employment, and/or while on, in or using City premises or property. Subject to the alcohol exception this also includes breaks, meal periods, and time between split shifts regardless of whether the employee is actually on City premises.

Prohibited or illegal drugs – chemical substances which:

a. are not legally obtainable
b. are legally obtainable but have been obtained or are used illegally; or
c. are not for the purpose for which they are prescribed or manufactured; and
d. may include, but not limited to the following:
   marijuana, cocaine, opiates (morphine, heroin, codeine), alcohol, amphetamines, benzodiazepines, barbiturates, phencyclidine (PCP), **methadone, and propoxyphene.** (Ord. 56-08)

Reasonable suspicion – a belief that illegal drug and/or alcohol involvement and/or use is influencing employee's behavior, appearance, job performance, or fitness for duty, and/or that employee is under the influence of or is possessing, selling, purchasing, receiving, manufacturing or distributing illegal drugs or alcohol while on the job or while on City premises.

a. Observed behavior, such as direct observation of drug/alcohol use or possession and/or the physical symptoms of drug and/or alcohol use;
b. A pattern of abnormal conduct or erratic behavior;
c. Arrest or conviction for a drug-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking. The employee is responsible for notification to the City, within five (5) working days, of any drug-related conviction;
d. Information provided either by reliable and credible sources or independently corroborated regarding an employee's substance use; or
e. Newly discovered evidence that the employee has tampered with a previous drug or alcohol test.

Reasonable suspicion testing does not require certainty, but mere "hunches" are not sufficient to justify testing. To prevent this, all supervisors will be trained in the recognition of drug and alcohol-related signs and symptoms. Testing may be for drugs or alcohol or both.

Re-test -A second-opinion analysis of a urine specimen originally deemed positive for drugs/metabolites. This test is usually requested by the donor and performed at a laboratory meeting the same standards as the lab conducting the first analysis.

Safety sensitive – any job or function, identified by the City, which by the nature of the work activity, could be dangerous and/or unsafe to the employee, co-workers, customers or the general public due to any momentary lapse in attention or judgment.

Screening Test Technician (STT) -A technician who is qualified under federal guidelines (49 CFR Part 40 as may be amended) to use the saliva testing mechanism to screen for alcohol.

Substance Abuse Professional (SAP) -A professional who is qualified under federal guidelines (49 CFR Part 40) to perform alcohol/drug assessments. Such qualified professionals include licensed physicians, licensed/certified psychologists, social workers, employee assistance professionals and certified addiction counselors with knowledge of and clinical experience in the diagnosis and treatment of alcohol/drug-related disorders.

APPENDIX 3
Notification of Testing

Instructions This form is to be completed, then read and signed by the employee or prospective employee.

I understand that as required by **City of Medina** *Drug-Free Workplace Policy*, I must, as a condition of employment, submit to an alcohol test to determine alcohol concentration, and/or to a urine drug screen for controlled substances. I fully understand that a positive test result for alcohol or drugs (controlled substances) will render me unqualified to perform assigned tasks and **will result in termination of employment**. I understand that for any confirmed Alcohol Test with results of 0.02 or greater, I must remain at this collection site until the City provides alternate transportation.

I further understand that any positive test result for drugs, an alcohol result at or above 0.08 or any refusal to test may affect my eligibility for compensation and benefits under this state's workers compensation laws.

A Medical Review Officer who will report the results as negative or positive will maintain results of the drug test. If a positive test result is reported, the identity of the controlled substance will be released to the designated City representative. I also understand that if the test result is positive, I can request a re-test of the specimen by another DHHS-certified lab at my own expense. This request must be made in writing within 72 hours of the notification of the positive result.

The test I am submitting to is to fulfill the following requirements: ☐ ***Non-DOT*** ☐ Drug Screen ☐ Breath Alcohol

☐ Pre-Employment	☐ Random	☐ Reasonable Suspicion
☐ Post Accident	☐ Return to Duty	☐ Follow-up

COLLECTION SITE

Report to:_____ at _____
FACILITY NAME ADDRESS

Scheduled Appointment _____ at_____
DATE TIME

Time Notified:_____ Time Arrived at Collection Site:_____

EMPLOYEE ACKNOWLEDGMENT

As a condition of my employment, I agree to the Breath Alcohol Testing and/or urine sample collection for Controlled Substance Testing. I have read and understand the above requirements. I agree to report for drug and/or alcohol testing and consent to the release of the test results to the City.

I, _____ _____
Print Name Applicant or Employee Signature

Phone # where employee can be reached: _____

APPENDIX 4
Acknowledgement of Receipt

DRUG-FREE WORKPLACE POLICY

By signing this form in the space provided below you are acknowledging that you have received a copy of **City of Medina**. Drug-Free Workplace Policy, that you speak and understand English, has had the opportunity to discuss the policy and have questions answered.

Your signature below acknowledges your agreement to abide by the provisions of this policy and you recognize that any violation **will lead to termination** of your employment.

WARNING: ANY POSITIVE RESULT OR ANY REFUSAL TO TEST MAY AFFECT YOUR ELIGIBILITY FOR COMPENSATION AND BENEFITS UNDER THE WORKERS COMPENSATION LAWS OF THIS STATE.

Date Signed	Employee's Signature
Witness Signature	Printed Name of Employee

APPENDIX 5
Drug and Alcohol Testing Procedure for Commercial Drivers

The following provisions shall be applied to any employee that is required to hold a commercial drivers license (CDL) to perform assigned tasks. Where appropriate, those employees holding a CDL may also be tested under the general company testing provisions, such as in post injury situations where there is no DOT-reportable accident but there is an injury requiring medical attention away from the site of the injury, provided it has been determined that reasonable suspicion of prohibited substance use exists.

Applies to: Any employee required to hold a commercial drivers license to perform assigned tasks and/or who operates any vehicle in excess of 26,001 pounds gross vehicular weight.

Definitions: See the general company policy. If there is a conflict between the general company policy and this APPENDIX, this APPENDIX shall apply. The following definitions shall govern any interpretation involving a commercial driver:

"Actual knowledge" applies only to federally regulated workers and means actual knowledge by an employer that a has used alcohol or controlled substances based on the employer's direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances or an employee's admission of alcohol or controlled substance use, except as provided elsewhere in this policy. Direct observation as used in this definition means observation of alcohol or controlled substance use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing under this policy.

"Adulterated specimen" means a specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

"Air blank" means, in evidential breath testing devices (EBTs) using gas chromatography technology, a reading of the device's internal standard. In all other EBTs, a reading of ambient air containing no alcohol.

"Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

"Alcohol concentration" (or content) means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under this policy.

"Alcohol confirmation test" means a subsequent test using an EBT, following a screening test with a result of 0.02 or greater that provides quantitative data about the alcohol concentration.

"Alcohol screening device (ASD)" means a breath or saliva device, other than an EBT, that is approved by the National Highway Traffic Safety Administration (NHTSA) and placed on a conforming products list (CPL) for such devices.

"Alcohol screening test" means an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen

"Alcohol testing site" means a place selected by the employer where employees present themselves for the purpose of providing breath or saliva for an alcohol test.

"Alcohol use" means the drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol.

"Blind specimen or blind performance test specimen" means a specimen submitted to a laboratory for quality control testing purposes, with a fictitious identifier, so that the laboratory cannot distinguish it from an employee specimen.

"Breath Alcohol Technician (BAT)" means a person who instructs and assists employees in the alcohol testing process and operates an evidential breath testing device.

"Cancelled test" means a drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which this policy otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.

"Chain of custody" means the procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed. This procedure uses the Federal Drug Testing Custody and Control Form (CCF).

"Collection container" means a container into which the employee urinates to provide the specimen for a drug test. Collection site. A place selected by the employer where employees present themselves for the purpose of providing a urine specimen for a drug test.

"Collector". A person who instructs and assists employees at a collection site, who receives and makes an initial inspection of the specimen provided by those employees, and who initiates and completes the CCF.

"Commerce" means: (1) Any trade, traffic or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, including a place outside of the United States; and (2) Trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in paragraph (1) of this definition.

"Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle-- (1) Has a gross combination weight rating of 11,794 or more kilograms (26,001 or more pounds) inclusive of a towed unit with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or (2) Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds); or (3) Is designed to transport 16 or more passengers, including the driver; or (4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

"Confirmation (or confirmatory) drug test" means a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite.

"Confirmation (or confirmatory) validity test" means a second test performed on a urine specimen to further support a validity test result.

"Confirmed drug test" means a confirmation test result received by an MRO from a laboratory.

"Consortium/Third party administrator (C/TPA)" means a service agent that provides or coordinates one or more drug and/or alcohol testing services to DOT-regulated employers. C/TPAs typically provide or coordinate the provision of a number of such services and

perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members (e.g., having a combined random testing pool). C/TPAs are not ``employers'' for purposes of this policy.

"Controlled substances" mean those substances to be tested including the following: (a) Marijuana metabolites. (b) Cocaine metabolites. (c) Amphetamines. (d) Opiate metabolites. (e) Phencyclidine (PCP).

"Designated employer representative (DER)" shall be a company **designee** *who shall receive communications and test results from service agents and who is authorized to take immediate actions to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes.*

"Dilute specimen" means a specimen with creatinine and specific gravity values that are lower than expected for human urine.

"Disabling damage" means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs. (1) Inclusions. Damage to motor vehicles that could have been driven, but would have been further damaged if so driven. (2) Exclusions. (i) Damage which can be remedied temporarily at the scene of the accident without special tools or parts. (ii) Tire disablement without other damage even if no spare tire is available. (iii) Headlight or taillight damage. (iv) Damage to turn signals, horn, or windshield wipers which make them inoperative.

"DOT Agency" means an agency (or ``operating administration'') of the United States Department of Transportation administering regulations requiring alcohol and/or drug testing (14 CFR parts 61, 63, 65, 121, and 135; 49 CFR parts 199, 219, 382, and 655), in accordance with 49 CFR part 40

"Driver" means any person who operates a commercial motor vehicle. This includes, but is not limited to: Full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors.

"Drugs" mean the substances for which tests are required under this policy and include marijuana, cocaine, amphetamines, phencyclidine (PCP), and opiates.

"Evidential Breath Testing Device" (EBT). A device approved by NHTSA for the evidential testing of breath at the .02 and .04 alcohol concentrations, placed on NHTSA's Conforming Products List (CPL) for ``Evidential Breath Measurement Devices'' and identified on the CPL as conforming with the model specifications available from NHTSA's Traffic Safety Program.

"HHS" means the Department of Health and Human Services or any designee of the Secretary, Department of Health and Human Services.

"Initial drug test" means the test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

"Initial validity test" means the first test used to determine if a specimen is adulterated, diluted, or substituted.

"Invalid drug test" means the result of a drug test for a urine specimen that contains an unidentified adulterant or an unidentified interfering substance, has abnormal physical characteristics, or has an endogenous substance at an abnormal concentration that prevents the laboratory from completing or obtaining a valid drug test result.

Laboratory. means any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs

"Licensed medical practitioner" means a person who is licensed, certified, and/or registered, in accordance with applicable Federal, State, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.

"Medical Review Officer (MRO)" means a person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results

"Performing (a safety-sensitive function) means" a driver of any vehicle or operator of any equipment and applies to any employee 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 any safety-sensitive functions.

"Positive rate" applies only to federally regulated workers and means the number of positive results for random controlled substances tests conducted under this policy plus the number of refusals of random controlled substances tests required by this policy, divided by the total of random controlled substances tests conducted under this policy plus the number of refusals of random tests required by this policy.

Primary specimen in drug testing means the urine specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of validity testing. The primary specimen is distinguished from the split specimen, defined in this section.

"Refuse to submit" (to an alcohol or controlled substances test) means that an employee:

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

(2) Fails(ed) to remain at the testing site until the testing process is complete. Provided, that an employee who leaves the testing site before the testing process commences a pre- employment test is not deemed to have refused to test;

(3) Fails(ed) to provide a urine specimen for any drug test required by this policy or DOT agency regulations. Provided, that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test;

(4) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the employee's provision of a specimen;

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

(6) Fails(ed) or declines to take a second test the employer or collector has directed the employee to take;

(7) Fails(ed) to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER. In the case of a pre- employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment;

(8) Fails(ed) to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process, or failing to complete all documents); or

(9) Is reported by the MRO as having a verified adulterated or substituted test result.

"Safety/Environmentally-sensitive function" ("S/ES") means all time from the time an employee begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. S/ES functions shall include:
(1) All time at an employer plant, terminal, facility, or other property, or on any public property, unless the employee has been relieved from duty by the employer;
(2) All time inspecting equipment as required by company procedure or federal rule or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
(3) All time spent at the controls of any vehicle/equipment in operation;
(4) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth;
(5) All time loading or unloading a 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; and
(6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Screening test (or initial test) means: (1) In drug testing, a test to eliminate ``negative" urine specimens from further analysis or to identify a specimen that requires additional testing for the presence of drugs. (2) In alcohol testing, an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

"Screening Test Technician" (STT). A person who instructs and assists employees in the alcohol testing process and operates an ASD.

"Secretary" means the Secretary of Transportation or the Secretary's designee.

"Service agent" means any person or entity, other than an employee of the employer, who provides services specified under this. This includes, but is not limited to, collectors, BATs and STTs, laboratories, MROs, substance abuse professionals, and C/ TPAs. To act as service agents, persons and organizations must meet the qualifications set forth in applicable law. Service agents are not employers for purposes of this policy.

"Shipping container" means a container that is used for transporting and protecting urine specimen bottles and associated documents from the collection site to the laboratory.

"Specimen bottle" means the bottle that, after being sealed and labeled according to the procedures in this policy, is used to hold the urine specimen during transportation to the laboratory.

"Split specimen", in drug testing, means a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

"Stand-down" means the practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test result.

"Substance Abuse Professional (SAP)". A person who evaluates employees who have violated this policy and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

"Substituted specimen" A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine. Verified test. A drug test result or validity testing result from an HHS-certified laboratory that has undergone review and final determination by the MRO.

"Violation rate" applies only to federally regulated workers and means the number of drivers found during random tests given under this policy to have an alcohol concentration of 0.04 or greater, plus the number of drivers who refuse a random test required by this policy, divided by the total reported number of drivers in the industry given random alcohol tests under this policy plus the total reported number of drivers in the industry who refuse a random test required by this policy

Test events:

Pre-employment tests: No individual shall be allowed to serve in a safety-sensitive capacity until a verified negative test result. Before any individual performs any safety-sensitive duties the first time after being hired by the Company you must obtain that individual's written consent to contact any commercial employer where that individual worked during the previous two (2) years to obtain the following information:

(1) Alcohol tests with a result of 0.04 or higher alcohol concentration;
(2) Verified positive drug tests;
(3) Refusals to be tested (including verified adulterated or substituted drug test results);
(4) Other violations of DOT agency drug and alcohol testing regulations; and
(5) With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests). If the previous employer does not have information about the return-do-duty process (e.g., an employer who did not hire an employee who tested positive on a pre-employment test), you must seek to obtain this information from the employee.

If feasible, we must obtain and review this information before the employee first performs safety-sensitive functions. If this is not feasible, we must obtain and review the information as soon as possible. However, we must not permit the employee to perform safety-sensitive functions ***after 30 days*** from the date on which the employee first performed safety-sensitive functions, unless we have obtained or made and documented a good faith effort to obtain this information.

If we obtain information that the employee has violated a DOT agency drug and alcohol regulation, we must not use the employee to perform safety-sensitive functions unless we also obtain information that the employee has subsequently complied with the return-to-duty requirements of this policy.

We must provide to each of the employers from whom you request information under paragraph (b) of this section written consent for the release of the information cited in paragraph (a) of this section.

The release of information under this section must be in any written form (e.g., fax, e-mail, and letter) that ensures confidentiality. As the previous employer, we must maintain a written record of the information released, including the date, the party to whom it was released, and a summary of the information provided.

When information is requested from us we must, after reviewing the employee's specific, written consent, immediately release the requested information to the employer making the inquiry.

As the employer requesting the information required under this section, we must maintain a written, confidential record of the information you obtain or of the good faith efforts you made to obtain the information. We must retain this information for three (3) years from the date of the employee's first performance of safety-sensitive duties for us.

As the employer, we must also ask the employee whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past two years. If the employee admits that he or she had a positive test or a refusal to test, we must not use the employee to perform safety-sensitive functions for us, until and unless the employee documents successful completion of the return-to-duty.

Post-accident tests: Any employee performing safety-sensitive commercial driver tasks who is involved in the following incidents shall undergo drug and alcohol testing:

(a) As soon as practicable following an accident involving a commercial motor vehicle operating on a public road in commerce, tests for the use of alcohol and drugs shall be required for:

(1) Any driver who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

(2) Any driver who receives a citation within 8 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:

(i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(ii) (ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

All required post-accident alcohol tests should be performed within two (2) hours following the accident and in all cases must be performed within eight (8) hours. If the test cannot be performed within 2 hours a note shall be maintained explaining why it could not be conducted. If the test cannot be performed within 8 hours there shall be no further attempt to conduct the test and a note shall be maintained in the driver's file.

If a test required by this section is not administered within 32 hours following the accident, the employer shall cease attempts to administer a controlled substances test, and prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to any government agency upon request. A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the employer to have refused to submit to testing. Nothing in this section shall be construed to

require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care. The Company shall provide drivers with necessary post-accident information, procedures and instructions, prior to the driver operating a commercial motor vehicle, so that drivers will be able to comply with the requirements of this section.

Random Testing: All commercial drivers shall be testing on a random basis from a separate random selection pool at the rate of **10% for alcohol** and **50% for drugs**. If selected, a driver shall cease any duties and proceed immediately to an approved facility for collection of samples. A driver shall only be tested for alcohol on as random basis just before, during and just after performing a safety sensitive function.

Confidentiality of records:

In accordance with general company policy, all records related to drug and alcohol testing shall be maintained in a confidential manner and only disclosed with the written consent of the driver or in accordance with law.