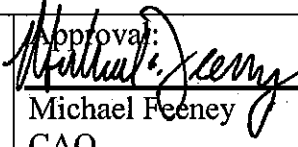
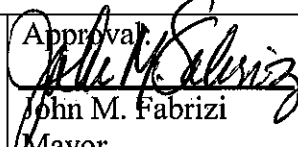


# CITY OF BRIDGEPORT

<b>Subject:</b> Pre-Employment and Reasonable Suspicion Drug and Alcohol Testing Policy	<b>Approval:</b>  Michael Feeney CAO	<b>Approval:</b>  John M. Fabrizi Mayor	<b>Effective:</b> 4-27-07 <hr/> <b>Number:</b> Page: 1 of 11
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## PURPOSE

The purpose of this policy is to establish the guidelines and procedures whereby a prospective employee of the City of the Bridgeport is required to take a pre-employment drug test or an employee (other than uniformed members of the Police and Fire Departments and CDL Drivers) may be ordered to undergo drug and/or alcohol testing when reasonable suspicion exists that the employee is using drugs and/or alcohol while on duty.

## POLICY

**It is the policy of the City of Bridgeport that the illegal use of drugs or misuse of alcohol is strictly prohibited. Any discipline issued pursuant to this policy will be considered for just cause within the applicable Collective Bargaining Agreement.**

### DEFINITIONS:

**Alcohol:** The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol including methyl or isopropyl alcohol.

**Alcohol Concentration:** The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under this policy.

**Alcohol Use:** The consumption of any beverage, mixture or preparation containing alcohol including, but not limited to, any medication containing alcohol.

**Breath Alcohol Technician:** The individual who will instruct and assist the employee in the alcohol testing process and operates the evidential breath-testing device.

**Bridgeport Motor Vehicle:** City owned, leased or rented motor vehicle or combination of motor vehicles used in commerce to transport City of Bridgeport employees, passengers or property.

**Chain of Custody:** Procedures to account for the integrity of each specimen by tracking its handling and storage from point of collection to final disposition.

**Collection Site:** Industrial Medical Center (IMC), 226 Mill Hill Avenue, Bridgeport, CT 06610 during hours the site is open and Bridgeport Hospital outside such hours, or such other site as the City may designate which meets SAMHSA standards.

**Confirmation Test:** In drug testing, a second analytical procedure to identify the presence of a specific drug or metabolite that is independent of the screening test and that uses a different technique and chemical principle from that of the screening test in order to insure reliability and accuracy. The confirmation test is performed using a Gas Chromatology/Mass Spectrometry (GC/MS) technique.

**Covered Employee:** All prospective employees of the City of Bridgeport and employees of the City of Bridgeport except uniformed members of the Police and Fire Departments and drivers of City vehicles who possess commercial driver's licenses (CDL) who are covered under other similar City policies.

**Direct Breath Analysis:** The analysis of a sample of a person's breath using an instrument designed for this purpose in order to determine the concentration of ethyl alcohol in the person's blood.

**Evidential Breath Testing Device (EBT):** An EBT approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath.

**Intoxilyzer:** An EBT by means of which equivalent blood alcohol concentration is indicated or recorded on a dial, meter, scale chart or printed record activated by a reaction between a sample introduced and appropriate detector in a chamber, tube or vessel within such apparatus.

**Medical Review Officer (MRO):** A licensed physician responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his/her medical history and any other relevant biomedical information. If an employee's test result is positive, the MRO will contact the employee to discuss the test to determine if the positive result is valid and to notify the employee that he/she has seventy-two (72) hours to request a test of the split specimen.

**Prescribed Drug:** Any drug, including over the counter medication, prescribed for an individual by a licensed practitioner.

**Refusal to Submit:** When any Covered Employee engages in conduct that obstructs the testing process. This includes but is not limited to the refusal to sign consent forms; the failure to provide adequate urine or a proper sample for controlled substance testing; the refusal to take a required test; the failure to make oneself available to a test as required by this policy.

**Safety Related Function:** Any function that affects the safety of employees and the safe and effective operation of the City of Bridgeport including but not limited to the following:

- 1) All time at a City of Bridgeport facility or other City of Bridgeport locations or in a City of Bridgeport motor vehicle;
- 2) All time that a covered City of Bridgeport employee is on duty.

**SAMHSA:** Substance Abuse Mental Health Services Administration.

**Screening Test:** In drug testing an immunoassay screen to eliminate negative urine specimens from further analysis. The initial screening will be the EMIT (Enzyme Multiplied Immunoassay Technique).

**Supervisor:** Personnel assigned to a position having day-to-day responsibility for supervising subordinates.

## **PROHIBITED CONDUCT**

- 1) The illegal use of controlled substances at any time is prohibited.
- 2) The performance of any Safety Related Function while using legally prescribed drugs is prohibited unless the use is pursuant to the instructions of a physician who has advised the employee that the substance will not adversely affect his/her work performance. The use of legally prescribed drugs, that may impair the employee's work performance or may affect workplace safety, shall be reported to the immediate supervisor before the performance of any Safety Related Function.
- 3) Refusal to submit to a drug test is strictly prohibited. The Covered Employee is required to cooperate with the laboratory personnel and provide them with the following:

- An adequate and complete sampling
- Assistance in completing the required documentation for chain of custody
- Marking and sealing the specimen

The refusal by a Covered Employee to submit to a drug screening test pursuant to the provisions of this policy will result in disciplinary action, up to and including termination.

The refusal by a prospective employee to submit to a drug screening test pursuant to the provisions of this policy will disqualify a prospective employee from consideration for employment.

- 4) The use of a masking agent designed to conceal the use of drugs to be tested is prohibited. The use of such an agent will be deemed a confirmed positive test.
- 5) The consumption of alcohol while performing a Safety Related Function is prohibited.
- 6) A blood alcohol level of .04 or greater is prohibited while performing any Safety Related Function.
- 7) A refusal to submit to an alcohol test is prohibited. A refusal to submit to an alcohol test will be treated as a confirmed positive result.

## **EMPLOYEES SUBJECT TO TESTING & TYPES OF DRUGS TESTED FOR**

All Covered Employees shall be subject to the alcohol and drug testing procedures detailed in this policy.

The drug testing outlined in this policy will test for the following substances:

- 1) Marijuana
- 2) Cocaine
- 3) Amphetamines
- 4) Opiates (e.g. heroine, codeine)
- 5) Phencyclidine (PCP)

Note: The City reserves the right to order testing for Hallucinogens or Steroids, when appropriate. This list is subject to change at the City's discretion.

## **PRE-EMPLOYMENT TESTING**

Prior to the employment of any prospective employee of the City of Bridgeport, that prospective employee shall undergo testing for alcohol and controlled substances. A Covered Employee who is laid off or on a leave for more than one year shall be subject to pre-employment testing.

## **REASONABLE SUSPICION TESTING**

When a "reasonable suspicion" is determined indicating that a Covered Employee is using drugs and/or alcohol, that employee will be tested pursuant to procedures set forth in this policy.

Circumstances which constitute a basis for determining reasonable suspicion may include, but are not limited to:

- Direct observation of drug and/or alcohol use;
- The employee's body shows evidence of drug use (e.g. track marks);
- The employee is found to be in possession of drugs or alcohol on duty;
- Spontaneous, unusual, abnormal, erratic or unacceptable behavior;
- An unusual or suspicious pattern of sick leave usage;
- Information which is provided by a reliable and credible source;
- The presence of symptoms of drug or alcohol use (e.g. odor of alcoholic beverage, glassy or blood shot eyes, slurred speech, poor coordination and/or reflexes, etc.);
- The occurrence of repeated multiple on-the-job accidents or injuries.

Any observation for controlled substances and/or alcohol reasonable suspicion testing must be reported immediately to a supervisor.

Any employee who has a reasonable suspicion that his/her supervisor may be under the influence of a controlled substance and/or alcohol may report such suspicion to the next supervisor in the chain of command, and if not available, to the highest ranking

supervisor on duty. There will not be any reprisal against any employee who makes such a report. Any supervisor who does so will be subject to discipline up to and including termination.

A Supervisor who has a reasonable suspicion under this Policy shall consult with the City's Office of Labor Relations if possible concerning such suspicion. The supervisor shall also report such suspicion to their Department Head if possible. After such consultation the supervisor may order the employee for reasonable suspicion testing as provided herein. Except in an emergency or the unavailability of Labor Relations and/or the Department Head, the prior approval of such persons shall be obtained before ordering an employee for testing. A memorandum detailing in writing the specific facts, symptoms or observations that formed the basis for their determination that reasonable suspicion existed to warrant the testing of the employee shall be prepared by the reporting supervisor at the time of referral for testing and approved by the Department Head.

A written directive shall be prepared by the supervisor ordering the employee to report for testing immediately, if possible, but in any event within twenty-four (24) hours. The supervisor shall drive the employee to the Collection Site if possible. If not possible, the supervisor shall arrange for transportation. No employee under reasonable suspicion shall be permitted to drive themselves.

Any employee ordered for reasonable suspicion controlled substance testing, shall also undergo an alcohol screening test.

## **POST ACCIDENT TESTING**

Employees shall be tested for controlled substances and/or alcohol if the employee was involved in an accident while performing a safety sensitive function with respect to that vehicle, and:

- 1) The accident involved the loss of human life, or;
- 2) The employee was involved in an accident while performing a safety sensitive function with respect to that vehicle and:
  - a. Any vehicle is required to be towed from the scene of the accident or,
  - b. The employee receives a citation as a result of the accident or,
  - c. Anyone involved in the accident has a bodily injury requiring immediate treatment away from the scene of the accident or,
  - d. The employer determines, using the best information available at the time of the decision, that the covered employee's performance cannot be completely discounted as a contributing factor to the accident.

Nothing in this section shall require the delay of necessary medical attention following an accident.

## **RETURN TO DUTY TESTING**

Before an employee who has violated this policy concerning alcohol returns to duty requiring the performance of a Safety Related Function, the employee shall undergo a return to duty alcohol test with a result indicating a blood alcohol level of less than .04.

Before an employee who has violated this policy concerning controlled substance returns to duty requiring the performance of a Safety Related Function, just before such function, the employee shall undergo a return to duty controlled substance test with a result indicating a verified negative result for controlled substance use.

## **FOLLOW-UP TESTING**

Following a determination by a substance abuse professional that an employee is in need of assistance associated with alcohol misuse and/or use of controlled substance that employee will be subject to unannounced follow-up alcohol and/or controlled substance testing. A minimum of six follow up tests must be performed within twelve months of the employee's return to Safety Related Function whether or not a substance abuse professional determines that the employee is in need of further assistance. Additional follow-up tests shall be performed as directed by a substance abuse professional.

## **ALCOHOL TESTING PROCEDURES**

Alcohol testing will be performed by using evidential breath testing (EBT) devices approved by the NHTSA. The Test will be conducted by a Breath Alcohol Technician (BAT) at the collection site. At least two breath tests will be required to determine if a person has a prohibited alcohol concentration. If the first test result is less than .02, the test will be considered negative. If the test shows an alcohol concentration of .02 or greater, a second confirmation test must be conducted. If the confirmation test shows an increased concentration, then the process must be repeated. The final test result will determine what action, if any, needs to be taken.

In order to insure that an EBT is working properly, the BAT will run an air bank test which shows a reading of zero before a test is performed. A fifteen minute waiting period is required between the screening and confirmation test.

## **DRUG TESTING PROCEDURES**

- 1) Drug testing will be performed by providing a urine sample (minimum of 60-75 ml.) at the collection site.
- 2) If an employee is unable to provide an adequate sample, the employee must remain at the collection site for a period of three hours. The employee will be required to consume a minimum of 40 fl. oz. of water during this period. If the employee is still unable to provide an adequate sample, the employee will be referred to a mutually

agreed upon physician, to assess the employee's inability to provide an adequate sample.

- 3) Specimen collection procedures require security for the collection site, chain of custody documentation, use of authorized personnel, privacy during collection, integrity and identity of the specimen, and transportation to the laboratory. Only those sites certified by SAMHSA, and that have these procedures in place will be used.
- 4) All personnel subject to testing shall present their department identification upon appearing at the laboratory.
- 5) Once the urine specimen is collected, it will be forwarded to a SAMHSA certified laboratory. The accuracy of the test shall be drug specific. The initial test shall employ a methodology different from the second test. The initial screening shall consist of the EMIT (Enzyme Multiplied Immunoassay Technique). If this test is negative no further test will be required. If the result is positive, a second confirmation test will be conducted. The confirmation test is performed using a Gas Chromatology/Mass Spectrometry (GC/MS) technique. A MRO will review and interpret positive test results.
- 6) The testing facility will be continuously bound to make provisions to properly preserve, store and secure a split urine sample of the original urine specimen, to be reserved and made available for the purpose of an independent confirmation. The employee, using the laboratory of his/her discretion, will authorize this independent confirmation provided such laboratory is SAMHSA certified. Any employee requesting testing of the split sample must make the request to the MRO within 72 hours of being notified of the results. The laboratory will make available to the employee, for his/her inspection, all records of the primary and secondary confirmation testing done by the lab on the urine sample provided by the employee. There are no cut off levels for testing of the split sample.
- 7) Only confirmed positive results are reported positive. The Office of Labor Relations shall be notified immediately following a positive test result.
- 8) The laboratory must continue the uninterrupted chain-of-custody procedure from receipt of the specimen and maintain internal chain of custody procedures that establish fundamental accountability and reliability of testing from a legal viewpoint. The chain of custody procedure must be stringent and confidential in all phases of the process:
  - Handling of the specimen
  - Testing the specimen
  - Storing of the specimen
  - Reporting of the test results

- 9) The City shall assure that the existing laboratory will be subject to appropriate external auditing procedures to evaluate quality assurance, evaluation of testing procedures and overall performance.

The following table reflects the cut off levels that will indicate a positive on a drug-screening test.

<b>DRUGS</b>	<b>INITIAL TEST LEVELS (NG/ML)</b>	<b>CONFIRMATION TEST LEVELS (NG/ML)</b>
Marijuana	50	15
Cocaine	300	150
Opiates	2000	
Morphine		2000
Codeine		2000
Phencyclidine (PCP)	25	25
Amphetamines	1000	500
Methamphetamine		500

### **CONSEQUENCES OF A POSITIVE CONTROLLED SUBSTANCE TEST**

Any employee who has tested positive for the use of controlled substances or alcohol in violation of this policy will immediately be removed from the performance of any Safety Related Function. This includes but is not limited to any activity or the use of any equipment that may involve a safety risk to the employee, his fellow employees or the general public at large.

Disciplinary action will be taken against an employee for the confirmed use of drugs and/or the misuse of alcohol. That employee will immediately be suspended for a period of ten (10) days without pay. In some circumstances more severe disciplinary action, including termination, will be applied, depending on the seriousness of the conduct and/or the employee's record.

In the case of a probationary employee, that employee shall be terminated for such confirmed use.

In the case of a temporary, part-time, or seasonal employee, that employee shall be terminated for such confirmed use.

A positive pre-employment test will disqualify a prospective employee from consideration for employment.

As a condition of continued employment, the employee will be mandated to successfully complete a detoxification/rehabilitation program as recommended by and under the



supervision of the City's Employee Assistance Program. Any breach of the employee's after care treatment will lead to the dismissal of the employee.

A positive result on return to duty or follow up tests will lead to the dismissal of the employee.

A second violation of the City's Drug and Alcohol Policy will lead to the dismissal of the employee. It is the Policy of the City of Bridgeport to encourage the rehabilitation of its employees with drug or alcohol problems. Therefore, the City will allow a one-time opportunity, for any employee not terminated, to rehabilitate himself through the City's EAP program. This is a one time only opportunity. **Note:** Any employee who is found to be in violation of this policy by any other means (i.e. direct observation, arrest, or criminal conviction) will be subject to the above discipline up to and including termination.<sup>1</sup>

## **CONSEQUENCES OF VOLUNTARY DISCLOSURES**

The City believes that successful rehabilitation depends on an employee's willingness to rehabilitate himself/herself and the admission to oneself that he/she has a problem. Therefore, the City will encourage voluntary disclosure and offer assistance to any employee who seeks help on a voluntary basis. On a one time only basis, any employee who voluntarily seeks assistance will not be disciplined for the use of controlled substances or the misuse of alcohol and will be afforded the opportunity to utilize his/her accrued sick time to achieve his goal of rehabilitation. Each employee is entitled to only one voluntary disclosure.

An employee who voluntarily discloses his drug and/or alcohol problem will be subject to the same return to duty requirements as an employee who tests positive including return to duty and follow up testing; however, this employee will not be subject to immediate termination for a failure of such return to duty or follow up test unless it is his second disciplinary offense.

A disclosure will be considered voluntary only if made:

- 1) Prior to any accident or incident which could lead to a drug and/or alcohol test.
- 2) Prior to the employee being ordered for drug and/or alcohol test.
- 3) Prior to any employee becoming aware of an impending test.

A voluntary disclosure must be made to the appropriate department head in writing.

**Note:** An employee who voluntarily discloses his drug or alcohol use will not be subject to discipline only for the use of controlled substances or the misuse of drugs. He

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<sup>1</sup> The disciplinary action outlined herein represents the City's position with respect to just cause. It is recognized that a union may contest such discipline and whether just cause exists through the grievance and arbitration process.

may however be subject to discipline for any underlying offenses (e.g. tardiness) or for any pending disciplinary action.

### **CONSEQUENCES OF REFUSAL TO SUBMIT**

Any employee who is required to submit to a drug or alcohol test as required by this policy and refuses to submit to such test will be subject to immediate termination.

### **REINSTATEMENT OF EMPLOYEE**

Any employee who tests positive for alcohol and/or controlled substances, refuses a required test, or who voluntarily discloses a drug and/or alcohol problem and who is not terminated from employment will not be allowed to perform any Safety Related Functions until he has been evaluated by a substance abuse professional, completed all recommended treatment, and taken a return-to-duty drug test with a verified negative result.

### **EMPLOYEE ASSISTANCE PROGRAM**

Any employee who needs to seek help with a drug or alcohol problem may contact the City of Bridgeport Employee Assistance Program.

The EAP is available to all City employees and will provide counseling and referral services to any employee who seeks treatment.

The EAP services are provided by the City at no charge. Additional counseling is available with a minimal co-pay charge as referred by the EAP. Any required treatment that is not covered by the City's EAP program or insurance shall be borne by the employee.

EAP enrollment and counseling is confidential.

**Note:** The enrollment in an EAP program is not considered a voluntary disclosure. The employee must notify his supervisor in writing to be considered to have voluntarily disclosed.

### **EMPLOYEE EDUCATION**

Covered Employees will be provided with information on the symptoms and effects of Drug and Alcohol use.

### **SUPERVISOR TRAINING**

Department Heads and supervisors of Covered Employees will receive training on alcohol awareness and drug awareness.

The purpose of supervisory training is to provide supervisors with the knowledge to recognize the symptoms of drug and alcohol use and/or abuse and to familiarize them with the procedures and roles of the persons involved in this Drug and Alcohol Policy.

#### **COMPENSATION OF EMPLOYEE**

Each employee shall be compensated at his regular hourly rate for all testing pursuant to this policy, whether during regular working hours or on call back, except in the case of return to duty or follow up testing in which case the employee will not be compensated.

#### **CONTACT PERSON**

The City's Office of Labor Relations will be available to answer any questions regarding this policy.