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Filed: 11-13-18

Sponsored by: Schilling

First Reading: _____

Second Reading: _____

COUNCIL BILL 2018 - 283

GENERAL ORDINANCE _____

AN ORDINANCE

1 AMENDING the Springfield City Code, Chapter 2, Article III, Division 1, Section 2-91,
2 known as the 'Merit System Rules and Regulations,' by amending Merit
3 Rule 26, 'Substance Abuse Policy,' for the purpose of complying with
4 Department of Transportation regulations. (The Merit Rule amendment
5 has Personnel Board approval.)
6 _____
7

8 BE IT ORDAINED, BY THE COUNCIL OF THE CITY OF SPRINGFIELD,
9 MISSOURI, as follows, that:

10 (NOTE: Throughout this Ordinance and the attached "Exhibit A," underlined language
11 has been added, and ~~stricken~~ language has been deleted.)
12

13
14 Section 1 – Springfield City Code, Chapter 2, 'Administration,' Article III, Division
15 1, Section 2-91, of the City Code known as the 'Merit System Rules and Regulations is
16 hereby amended as set forth in "Exhibit A," which is attached hereto and incorporated
17 herein by reference.
18

19 Section 2 – This Ordinance shall be in full force and effect from and after
20 passage, and the Merit Rule 26 amendment shall be effective upon the passage of this
21 Ordinance.
22

23 Passed at meeting: _____
24

25
26 _____
27 Mayor

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29 Attest: _____, City Clerk
30

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32 Filed as Ordinance: _____
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Approved as to form: Rhonda Lewaden, Deputy City Attorney

Approved for Council action: Jason A. Hays, City Manager

EXPLANATION TO COUNCIL BILL 2018-283

FILED: 11-13-18

ORIGINATING DEPARTMENT: Human Resources

PURPOSE: Amending the Springfield City Code, Chapter 2, Article III, Division 1, Section 2-91, known as the 'Merit System Rules and Regulations,' by amending Merit Rule 26, 'Substance Abuse Policy,' for the purpose of complying with Department of Transportation regulations. (The Merit Rule amendment has Personnel Board approval.)

BACKGROUND: Proposed changes to this Merit Rule are recommended to comply with Department of Transportation ("DOT") regulations effective January 1, 2018. While the City implemented the new protocols and regulations immediately upon passage, the City's Merit Rules & Regulations Manual must be updated to reflect the same.

In light of the nation's opioid crisis, the DOT took action to implement new regulations to mandate testing for additional substances. The requirements of the DOT laws will be incorporated as a part of the City's drug testing policy. In addition, Human Resources recommends implementing the newly issued standards for all City staff so that testing will be uniform regardless of whether the employee is a DOT or non-DOT employee; the same standard will apply to all employees. Lastly, given the required DOT updates, Human Resources staff identified several other updates and clarifications regarding policy protocols and procedures.

The proposed changes to Merit Rule 26 were presented to the Personnel Board for review and consideration at its November 1, 2018, administrative meeting. The Personnel Board voted unanimously to approve the recommended changes and to forward to City Council for consideration.

The City's Human Resource staff recommends the proposed changes to Merit Rule 26. The recommended changes to this Merit Rule have been discussed with the City's Leadership Team, as well as the union groups.

REMARKS: The City's Human Resources staff recommends the amendments to the Merit Rule 26, Substance Abuse Policy as contained in this Council bill. It is believed that the changes will update the City's policy to comply with DOT regulations, clarify certain protocols, reinforce the City's policy of ensuring working fitness for duty, protect employees and the public from the risks posed by the misuse of alcohol and controlled substances as well as continue its efforts to further support and promote employee well-being and citizen safety.

It is respectfully requested that Council give consideration and approval to these changes.

Submitted by:

Approved by:



Darla Morrison,
Director of Human Resources



Jason Gage,
City Manager

Exhibit A

RULE 26 - SUBSTANCE ABUSE POLICY

26.1 Alcohol & Controlled Substance Testing Policy

It is the policy of the City of Springfield to provide safe, dependable, and quality services to its citizens, to provide safe working conditions for its employees, and to comply with the requirements of federal law and regulations related to the Drug Free Work Place Act of 1988 and the Omnibus Transportation Employee Testing Act of 1991. It is also the policy of the City of Springfield to provide healthy and satisfying working environments for its employees.

It is the policy of the City of Springfield to ensure that its employees are not impaired in their ability to perform assigned duties in a safe, productive and healthy manner; to create a work environment free from the adverse effect of alcohol and controlled substances abuse or misuse; to prohibit the unlawful manufacture, distribution, dispensing, possession or use of alcohol and controlled substances; ~~and to encourage employees to seek professional assistance when personal problems, including alcohol and controlled substance dependency, adversely affect their ability to perform assigned duties.~~ and to encourage employees to seek professional assistance should they have or develop alcohol or controlled substance dependency.

26.2 Purpose

The purpose of this policy is to assure worker fitness for duty and to protect employees and the public from the risks posed by the misuse of alcohol and controlled substances. It is also the purpose of this policy to comply with applicable federal and state regulations governing work place alcohol and controlled substance abuse programs mandated under above-noted acts. These acts mandate urine drug testing and breathalyzer alcohol tests for DOT/Safety-sensitive positions and prevent performance of DOT/Safety-sensitive functions when there is a positive test result. Federal law has also established standards for the collection and testing of urine and breath specimens, the reporting of certain drug-related offenses, protective measures for certain employees tested, for the preservation of confidentiality, and for certain reporting requirements. These standards will apply to all tested employees.

In an effort to ensure a drug free work place, employees ~~hired after January 1, 1999, will, as a condition of accepting employment, be~~ required by the City of Springfield to comply with the applicable sections of this policy including: pre-employment testing for

controlled substances and reasonable suspicion testing for both alcohol and controlled substances.

Additionally, all employees in DOT/Safety-sensitive positions, ~~regardless of their date of hire,~~ will, as a condition of accepting employment, transfer, promotion, or demotion, be required by the City of Springfield to comply with all sections of this policy including: pre-employment, random, post-accident, reasonable suspicion, return to work, and follow-up testing for both alcohol and controlled substances.

26.3 Applicability

This policy applies to all employees and/or applicants who apply for employment with the City of Springfield. Certain testing provisions covered under this policy apply specifically to employees and volunteers in DOT/Safety-sensitive positions who perform DOT/Safety-sensitive functions as these persons and activities are defined in the Omnibus Transportation Employee Testing Act of 1991, and its implementing regulations, including, but not limited to, persons who are required to possess a Commercial Drivers License (CDL) license for the operation of a commercial vehicle. All testing provisions covered under this policy apply to employees of the City of Springfield who desire to work in an out-of-title capacity in a position which requires a CDL license for the operation of a commercial vehicle.

Additionally, all contractors of the City of Springfield shall be required to state in writing that they comply with the provisions of the Drug Free Work Place Act of 1988 and the Omnibus Transportation Employee Testing Act of 1991, and its implementing regulations, as a condition of the award and/or while engaged in services for the City of Springfield.

26.4 Definitions

- (a) **Commercial vehicle** - a motor vehicle designed or used to transport passengers or property: (a) If the vehicle has a gross combination weight rating of twenty-six thousand one or more pounds inclusive of a towed unit which has a gross vehicle weight rating of ten thousand one pounds or more; (b) If the vehicle has a gross vehicle weight rating of twenty-six thousand one or more pounds or such lesser rating as determined by federal regulations; (c) If the vehicle is designed to transport more than fifteen passengers, including driver; or (d) If the vehicle is transporting hazardous materials and is required to be placarded under the Hazardous Materials Transportation Act.

(b) DOT/Safety-sensitive positions - those positions (paid or unpaid) whose requirements and activities are defined in the Omnibus Transportation Employee Testing Act of 1991, and its implementing regulations, including but not limited to persons who are required to possess a CDL license for the operation of a commercial vehicle. The City of Springfield requires compliance with CDL licensure and alcohol and controlled substance testing regardless of the location where the equipment is being operated.

(c) Out-of-Title – an employee who is not regularly assigned to a position; but is temporarily working in a capacity other than his regularly assigned position. For purposes of this policy, employees who are working “out-of-title” in a DOT/Safety-sensitive function must comply with all requirements of the Omnibus Transportation Employee Testing Act of 1991 including, but not limited to, random drug testing, post-accident testing, etc.

(d) Rehabilitation – employees are allowed a one-time rehabilitation option during their employment with the City of Springfield. Employees must invoke their one-time option prior to submitting a specimen for random testing. The rehabilitation option does not apply to reasonable suspicion –or post-accident testing for alcohol or controlled substances. Employees who utilize their rehabilitation option must do so prior to submitting a specimen for the randomly ordered test. By electing this option, the employee is refusing to submit to the ordered test and will be treated as a positive test result in compliance with federal and state law. Employees who elect to utilize this option will be required to submit to return to work and follow-up testing as outlined in this policy.

(e) Direct Observation – employees may be required to provide a urine sample while observed by an employee of the collection site. Any direct observation will comply with 49CFR Subtitle A 40.67.

(f) Dilute Specimen – a specimen with Creatinine and specific gravity values lower than expected for human urine. A specimen that is below 20 for the substance Creatinine will undergo a specific gravity test. If the test produces a result outside the range of 1.003 and 1.019, it is considered a dilute specimen. Employees² whose tests ~~is~~are determined to be a dilute specimen, will be required to retest, supervised or unsupervised, until a non-dilute valid positive or negative controlled substance test can be reported.

(g) Delay - any failure to immediately report to the test site to participate in the required testing under this policy.

(h) Adulterated Sample – a urine specimen that contains substance that is not expected to be present in human urine, or if the temperature of the specimen is outside the range of 90 degrees F to 100 degrees F (32 degrees C to 38 degrees C), or contains a substance expected to be present but is at a concentration level so high that it is not consistent with human urine. Any specimen determined to be an adulterated sample will be treated as a positive controlled substance test.

(i) Positive Alcohol or Controlled Substance Test – refers to an employee or applicant testing above the screening and confirmation test levels for alcohol, marijuana, cocaine, phencyclidine, amphetamines, or ~~opiates~~ opioids.

(j) MRO - Medical Review Officer (See Contractual Support Professionals).

(k) SAP - Substance Abuse Professional (See Contractual Support Professional).

(l) Public Safety positions – shall include all positions within the following categories: 1.) law enforcement officers, 2.) firefighting personnel and 3.) emergency communications personnel.

(m) Public Health positions – shall include all health services positions in which the job duties require an employee to: Deliver or assist in the delivery of hands-on diagnosis or treatment of patients; operate, repair, maintain or sterilize equipment used in the delivery of health care services; prepare, dispense, stock or otherwise handle prescription drugs.

~~(n) IIAU – Inspections and Internal Affairs Unit.~~

26.5 Policy Administrator

(a) The City Manager of the City of Springfield has designated the Human Resources Director as the alcohol and controlled substance policy administrator for the City of Springfield. Any inquiries concerning this policy, its application, its administration, or its interpretation shall be made to the policy administrator ~~and~~ or his designee in writing, when possible. The Human Resources Director is the primary person responsible for implementation and administration of this policy, under the supervision of the City Manager.

(b) The policy administrator shall develop and maintain a current list of the positions that have been determined to be DOT/Safety-sensitive positions, which are governed by all sections of this policy. The position listing shall be available for inspection in the Human Resources office of the City of Springfield. Individuals applying for positions with the City of Springfield and affected employees shall be notified if the position that they apply for is defined as a DOT/Safety-sensitive position; and therefore, eligible for all testing provisions covered by this policy.

(c) The policy administrator shall develop all forms necessary to carry out the provisions of this policy, unless the forms are provided under the federal regulations. The forms shall be provided to appropriate persons who are responsible for the implementation and management of this policy.

26.6 *Alcohol & Controlled Substances Prohibitions*

(a) An employee is prohibited from the operation of a commercial motor vehicle and/or from engaging in any work related functions for the following alcohol related conduct: (1) while consuming alcohol; (2) while having a blood alcohol concentration of 0.02 or greater; (3) within four (4) hours of consuming alcohol; (4) after refusing to submit to an alcohol test; and (5) from consuming alcohol within eight (8) hours after an accident as specified in this policy.

(b) An employee is prohibited from the unauthorized possession of alcohol while on duty. An employee is prohibited from the unauthorized possession or use of unauthorized controlled substances at any time, whether on or off duty.

(c) Any employee convicted of illegal conduct related to alcohol or controlled substances or who fails to report such a conviction to the policy administrator shall be subject to disciplinary action, up to and including termination of employment.

(d) Any employee whose job performance requires the possession of a valid CDL license and who loses the CDL license for a violation of, or as a consequence of, the law shall be subject to disciplinary action, up to and including termination from employment. The employee shall notify the policy administrator and the employee's immediate supervisor of the loss of the CDL license immediately after revocation or temporary suspension of their license. Failure to notify the policy administrator of the loss of the CDL shall result in disciplinary action, up to and including termination of employment.

(e) Any employee who is using a prescribed or authorized controlled substance which may inhibit or impair the employee's performance shall provide written notice to his/her supervisor and/or the policy administrator of such use upon returning to work and prior to engaging in any work-related activity.

26.7 Alcohol & Controlled Substance Testing Provisions

Employees assigned to a DOT/Safety-sensitive position shall be subject to alcohol and controlled substances testing including the following types of tests: pre-employment testing, random testing, reasonable suspicion testing, post-accident testing, return to work testing, and follow-up testing.

Employees who are not assigned to a DOT/Safety-sensitive position are subject to alcohol and controlled substances testing including the following types of tests: pre-employment testing and reasonable suspicion testing.

(a) Pre-Employment Testing

(1) Pre-employment urine drug testing shall be required of all applicants for all positions as a condition of employment, regardless of the status of the position. Receipt of satisfactory test results is required prior to commencement of employment and/or engaging in DOT/Safety-sensitive functions. A positive alcohol or controlled substance test result disqualifies an applicant from appointment to employment for a period of at least two (2) years. Applicants must submit to a pre-employment urine drug test within twenty-four (24) hours of being ordered to test. Failure to submit to testing or failure to submit in a timely manner will result in the withdrawal of the City's conditional offer of employment. The applicant will be disqualified from further consideration for a period of two (2) years. Applicants who fail to test or who fail to submit in a timely manner for a second time will be permanently disqualified for consideration for employment with the City of Springfield. Any deviation from this practice must be documented and approved in writing by the policy administrator or designee.

(2) Employees of the City of Springfield who move via promotion, demotion or transfer from a non-DOT/Safety-sensitive position to a DOT/Safety-sensitive position, public health position, or public safety position must submit to a pre-employment, controlled substance test before commencing employment in the DOT/Safety-sensitive position, public health position, or public safety position.

(3) Employees of the City of Springfield who move from a DOT/Safety-sensitive position to another DOT/Safety-sensitive position are not required to submit to a pre-employment, controlled substance test before commencing employment in the new position.

(4) Any employee moving into a public safety or public health position regardless of their current position will be required to submit to a pre-employment, controlled substance test, unless movement is the result of an inter-departmental movement.

(b) Reasonable Suspicion Testing

(1) Reasonable suspicion testing applies to all City of Springfield employees regardless of their status or position. Reasonable suspicion testing shall be used to determine fitness for duty evaluations, including appropriate urine and/or breath testing when there are objective observable reasons to believe that alcohol or a controlled substance use is adversely affecting an employee's job performance or that the employee has violated this policy. Reasonable suspicion referrals for testing shall be made on the basis of documented objective facts and circumstances consistent with the effects of substance use. Reasonable suspicion observations and reports can only be made by supervisory or management personnel who are trained to detect the signs and symptoms of alcohol and controlled substance use and who may reasonably conclude that an employee may be adversely affected or impaired in the employee's work performance due to the use of alcohol or controlled substances. The observing supervisor or manager, regardless of the direct reporting relationship with the affected employee, is required to complete the appropriate required documentation concurrently with the observation and consideration to impose reasonable suspicion testing.

(2) All employees may be subject to testing following any type of accident if reasonable suspicion is determined, regardless of whether the accident meets the guidelines as noted under the post-accident provisions of this policy. A supervisor or manager who fails to report an observation and, subsequently, fails to order a confirmed reasonable suspicion will be subject to disciplinary action up to and including termination.

(3) Reasonable suspicion testing shall be required and completed whenever possible within two (2) hours of the observation, but in any case, no later than eight (8) hours after the observation for breath alcohol testing and thirty-two (32) hours for controlled

substance testing. An employee who is ordered to submit to a reasonable suspicion drug test ~~should~~will be transported to the testing site by City personnel.

(4) A positive reasonable suspicion test result for alcohol or controlled substances will result in termination of employment.

(c) *Random Testing*

(1) Random testing is applicable only to employees who work in DOT/Safety-sensitive positions or who have requested to work in an out-of-title position that is classified as a DOT/Safety-sensitive position. Random testing shall be unannounced and conducted with unpredictable frequency throughout the year using an established scientifically-based selection method. Testing shall be ordered by appropriate supervisory personnel, with no less frequency than required by federal law and regulations, and in such numbers as is minimally determined under the regulations. An employee who is notified to submit to a random drug test must report immediately to the collection site. No delay in reporting is acceptable. An employee who is ordered to submit and does not report to the collection site, without delay, must document circumstances causing the delay to be tested. Appropriate action by the supervisor, including the possibility of discipline, shall be required.

(2) The number and percentage of employees tested from the random pool will meet the minimum guidelines established by federal acts and state regulations unless modified by the City Manager. The City will utilize an outside company to conduct the selection method and perform the draws for random testing purposes.

(3) A positive random test result for alcohol or controlled substances will result in termination of employment unless the positive result is due to the employee refusing to test and invoking their one-time option for rehabilitation.

(4) If the outcome of a random test is inconclusive, neither positive or negative, the employee must promptly re-test when instructed to do so. The additional test(s) is not considered as an additional selection for a random test, as it only serves to provide a conclusive outcome. Any additional test needed due to this circumstance does not provide the employee with the right to exercise the one-time option for rehabilitation and will be supervised.

(d) *Post-Accident Testing*

(1) Post-accident testing is applicable only to employees who work in a DOT/Safety-sensitive position or who have requested to work in an out-of-title position that is

determined to be a DOT/Safety-sensitive position. Post-accident testing shall be required for employees assigned to DOT/Safety-sensitive positions after a vehicular accident, regardless of the type ~~of vehicle being operating, in which a fatality has occurred, or when a traffic citation is issued to the City's driver after an accident, or where injury to a person requires transport to a medical treatment facility, or disabling damage to one or more vehicles requires towing from the accident site to occur.~~ of vehicle being operated, if the accident involves the loss of human life; or when a traffic citation is issued to the City's driver, if the accident also involves one of the following: (1) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or (2) one or more motor vehicles incur disabling damage as a result of the accident, requiring a motor vehicle to be transported from the accident scene by a tow truck or other motor vehicle. Testing shall include both breath alcohol and urine drug testing of the employee(s).

(2) Post-accident testing shall be required and completed whenever possible within two (2) hours of the accident occurrence, but in any case, no later than ~~before~~ eight (8) hours after the accident for breath alcohol testing and thirty-two (32) hours for controlled substance testing. Employees submitting to post-accident testing should be transported to the testing facility by City personnel. An employee involved in an accident shall refrain from alcohol consumption for eight (8) hours following the accident. A positive post-accident test result for alcohol or controlled substances will result in termination of employment.

(e) Return to Work Testing

Return to work urine drug and alcohol testing for all DOT/Safety-sensitive positions covered by this policy shall be required for all employees who previously refused to submit to an alcohol or a random controlled substance test, which results in the reporting of a positive drug test result in compliance with federal and state laws. To return to work, the employee must test negative and be evaluated and released to return to work by a SAP before being permitted to return to work. Employees who test negative for alcohol or a controlled substance return to work test will be required to submit to follow-up testing. A positive return to work test result for alcohol or controlled substances will result in termination of employment.

(f) Follow-up Testing

(1) Follow-up testing is required for all employees who have received a positive test result via a failure to test for alcohol or a controlled substance. These employees shall

submit to frequent unannounced random urine and breath alcohol tests for a minimum of six (6) tests in the following twelve (12) months after return to work. Random testing may be continued for a period of up to sixty (60) months from the employee's return to work date. The duration of the follow-up testing and frequency of such testing shall be at the discretion of the policy administrator after review of the SAP's evaluation. A positive follow-up test result for alcohol or a controlled substance will result in termination of employment.

(2) Any employee who is involved in a work-related safety incident and/or accident who is also complying with a current follow-up testing plan will be subject to controlled substance and alcohol testing as part of the follow-up testing requirement. A positive follow-up test result for alcohol or controlled substances will result in termination of employment.

(g) Failure to Test

(1) Any employee who fails to submit to the required testing under this policy is considered to have tested positive and shall be subject to all of the consequences related to a positive test.

(2) Any employee ordered to submit to an alcohol or controlled substance test shall report immediately to the test site upon being ordered to submit to testing. DOT/Safety-sensitive ~~E~~employees may exercise their one-time option for rehabilitation if elected prior to submitting a specimen for a random alcohol or controlled substance test. Employees are not afforded a one-time option for rehabilitation if the employee is ordered to submit to a ~~reasonable suspicion or post-accident alcohol or controlled substance test~~ any other test outlined in this policy. Delay in reporting for testing by the employee shall be treated as a refusal to test and shall subject the employee to the consequences related to a positive test. Failure to provide a sufficient sample or to provide an unadulterated sample shall be considered as a refusal to test and shall subject the employee to the consequences related to a positive test.

(3) An employee ordered to submit to an alcohol or controlled substance test ~~must be~~ transported by another City employee or supervisor under the ~~Post-Accident~~ or Reasonable Suspicion provisions of this policy.

(h) Lethal Force Investigations

Any sworn law enforcement officer involved in using lethal force on-duty shall be required to submit to an alcohol and controlled substance test. The employee will be transported to the testing site by appropriate personnel as established by department

protocols. A positive post-lethal force test result for alcohol or controlled substances will result in termination of employment.

26.8 Testing Controls

(a) Alcohol: Federal regulations require breath testing to be conducted on Evidential Breath Testing devices approved by the National Highway Safety Administration. An initial screening test is conducted first. Any test result that is less than 0.02 blood alcohol concentration is considered to be a negative test result. If the blood alcohol concentration is 0.02 or greater, a second confirmation test must be conducted. An employee who tests with a blood alcohol concentration of 0.02 or greater shall be removed from any work-related activity for at least twenty-four (24) hours if performing DOT/Safety-sensitive work-related activity. An employee whose alcohol confirmation test result indicates a blood alcohol concentration of 0.04 or greater is considered a positive test result and will be subject to discipline.

Any employee who is found to have engaged in prohibited alcohol conduct under this policy shall be immediately removed from DOT/Safety-sensitive work-related activity; and shall not be permitted to resume work until the employee is (1) evaluated by a SAP, and (2) has tested negative in a follow-up test.

(b) Controlled Substances: Controlled substance testing is conducted by analyzing an employee's urine specimen provided at a laboratory certified and monitored by the U.S. Department of Health & Human Services for the following controlled substances:

INITIAL TEST ANALYTE	INITIAL TEST CUTOFF ¹ CONCENTRATION	CONFIRMATORY TEST ANALYTE	CONFIRMATION TEST CUTOFF CONCENTRATION
Marijuana Metabolites (THCA) ²	50ng/ ml mL ³	THCA THCA ¹	15 ng/ ml mL.
Cocaine Metabolite (Benzoylgonine)s	150 ng/ mL ³ mL	Benzoylgonine	100 ng/ ml mL.
Opiate Metabolites			
Codeine/Morphine ²	2000 ng/ ml mL	Codeine	2000 ng/ ml mL.
		Morphine	2000 ng/ ml mL.
Hydrocodone/Hydromorphone	300 ng/mL	Hydrocodone	100 ng/mL.
		Hydromorphone	100 ng/mL.
Oxycodone/Oxymorphone	100 ng/mL	Oxycodone	100 ng/mL.

		<u>Oxymorphone</u>	<u>100 ng/mL</u>
6-Acetylmorphine	<u>10 ng/mL</u>	6-Acetylmorphine	<u>10 ng/mL</u>
Phencyclidine	<u>25 ng/mL</u>	Phencyclidine	<u>25 ng/mL</u>
<u>Amphetamines</u> ³			
<u>Amphetamine/Methamphetamine</u> <u>AMP/MAMP</u> ⁴	<u>500 ng/mL</u>	Amphetamine	<u>250 ng/mL</u>
		Methamphetamine ⁵	<u>250 ng/mL</u>
<u>MDMA</u> ⁴ / <u>MDMA</u> ⁵⁶	<u>500 ng/mL</u>	MDMA	<u>250 ng/mL</u>
INITIAL TEST ANALYTE	INITIAL TEST CUTOFF CONCENTRATION	CONFIRMATORY TEST ANALYTE	CONFIRMATION TEST CUTOFF CONCENTRATION
		MDA ⁷	<u>250 ng/mL</u>
		MDEA ⁸	<u>250 ng/ml</u>
<p>¹<u>Delta 9 tetrahydrocannabinol 9-carboxylic acid (THCA)</u> For grouped analytes (i.e., two or more analytes that are in the same drug class and have the same initial test cutoff):</p> <p><u>Immunoassay:</u> The test must be calibrated with one analyte from the group identified as the target analyte. The cross-reactivity of the immunoassay to the other analyte(s) within the group must be 80 percent or greater; if not, separate immunoassays must be used for the analytes within the group.</p> <p><u>Alternate technology:</u> Either one analyte or all analytes from the group must be used for calibration, depending on the technology. At least one analyte within the group must have a concentration equal to or greater than the initial test cutoff or, alternatively, the sum of the analytes present (i.e., equal to or greater than the laboratory's validated limit of quantification) must be equal to or greater than the initial test cutoff.</p>			
<p>²²<u>Morphine is the target analyte for codeine/morphine testing. An immunoassay must be calibrated with the target analyte, Δ-9-tetrahydrocannabinol-9-carboxylic acid (THCA).</u></p>			
<p>³<u>Either a single initial test kit or multiple initial test kits may be used provided the single test kit detects each target analyte independently at the specified cutoff. Alternate technology (THCA and Benzoylcegonine): When using an alternate technology initial test for the specific target analytes of THCA and Benzoylcegonine, the laboratory must use the same cutoff for the initial and confirmatory tests (i.e., 15 ng/mL for THCA and 100 ng/mL for Benzoylcegonine).</u></p>			
<p>⁴<u>Methamphetamine is the target analyte for amphetamine/methamphetamine testing.</u></p>			
<p>⁵<u>To be reported positive for methamphetamine, a specimen must also contain amphetamine at a concentration equal to or greater than 100 ng/ml.</u></p>			
<p>⁶⁴<u>Methylenedioxymethamphetamine (MDMA)</u></p>			
<p>⁷⁻⁵<u>Methylenedioxyamphetamine (MDA)</u></p>			
<p>⁸<u>Methylenedioxyethylamphetamine (MDEA)</u>⁵</p>			

The above information is subject to change per federal guideline or as the City may deem necessary to protect the safety and productivity of the workplace.

The testing for controlled substances is a two-stage process. First a screening test is conducted which screens for the five (5) broad classes of controlled substances (Marijuana,

Cocaine, Phencyclidine, Amphetamines, Opioids~~ate~~). If the test result is positive for one or more of the controlled substances, a confirmation test is conducted to identify the specific metabolite and concentration level present within the broad class of controlled substances (see chart above). The confirmation test is a gas chromatography/mass spectrometry (GC/MS) analysis. The levels established for a positive test result for controlled substances are determined by the federal Department of Transportation. The testing levels vary with each controlled substance and differ from the confirmation test levels. The instrument (GC/MS) and the complexity of the controlled substance being tested during the confirmation test are more precise as compared to the initial screening test. Any employee or applicant who tests positive on the confirmation test shall be contacted by the Medical Review Officer (MRO). The employee shall be immediately removed from any DOT/Safety-sensitive work-related activity once the City has been notified of a positive test result. The applicant will be contacted by the City and the conditional offer of employment will be withdrawn once notified by the MRO.

Any employee in a DOT/Safety-sensitive position who invokes their one-time option for rehabilitation prior to submitting a specimen for a random drug test will be removed from performing DOT/Safety-sensitive functions immediately. The employee shall not be permitted to resume work until the employee is (1) evaluated by a SAP, and (2) has tested negative in a follow-up test. Employees so removed may be allowed to use any form of their accrued leave balances while removed from work.

Any employee or applicant who questions the results of a required urine drug test under this policy may request that an additional test be conducted. The test must be conducted on a split sample that was collected at the same time as the original sample. The test analysis shall be conducted at a different qualified laboratory than where the original test was conducted. All costs for testing that is requested by the employee shall be paid by the employee. An employee's request for a re-test must be made in writing to the Medical Review Officer (MRO) within seventy-two (72) hours of the notice to the employee of the initial test result. Requests made by the employee after the seventy-two (72) hour limit will only be accepted if the delay was due to documented circumstances that were beyond the control of the employee. The method of collecting, storing, and testing the split sample required under this policy shall be consistent with the procedures established in 49 CFR Part 40.

26.9 Rehabilitation Effort

(a) The City of Springfield offers an Employee Assistance Program to help employees who voluntarily seek assistance for problems including, but not limited to, chemical dependency, alcohol dependency, etc. For purposes of this policy, the City's rehabilitation option is offered to any employee who determines him/herself to be in need of assistance for a controlled substance or alcohol related problem. An employee may be permitted to enter a rehabilitation facility as approved by the City of Springfield, without fear of disciplinary action being imposed. An employee who does not voluntarily seek assistance through the Employee Assistance Program and violates the provision of this policy has placed his/her employment in jeopardy.

(b) Rehabilitation assistance, due to the refusing to submit to an random alcohol or controlled substance test, may only be granted to an employee one time while employed by the City of Springfield. Failure to complete the rehabilitation evaluation and any subsequent treatment plan as recommended by the SAP and/or comply with the provisions of this policy will result in termination of employment.

(c) Employees are encouraged to seek help with alcohol or chemical dependency problems voluntarily through a provider of their choice. Employees may confidentially request rehabilitation services through the City's EAP provider or the City's Health Care Plan, if applicable. Employees may access ~~rehabilitation~~ services at a reduced cost by requesting the service through the City's EAP provider. The City's EAP program ~~pays the cost of the~~ includes at least the first three (3) visits for treatment at no cost to the employee. Subsequent treatment(s), or treatment(s) outside the EAP provider will be eligible to be covered as outlined in the City's Health Care Plan, if applicable. Employees will not be disciplined for seeking assistance, if assistance is sought voluntarily, and not in connection with pre-employment or reasonable suspicion testing.- The following items must be completed for a rehabilitation process to be successful and complete:

1. The employee shall agree to be evaluated by the SAP or by a rehabilitation professional acceptable to the City of Springfield and successfully complete the rehabilitation treatment plan established for the employee by the SAP or by a rehabilitation professional accepted by the City of Springfield; and
2. the employee shall agree to refrain from any violation of this policy and the use of alcohol and/or controlled substances as is consistent with the treatment plan for rehabilitation and this policy; and

3. the employee shall provide a release of all medical records for use and review by the City of Springfield, specifically relating to the rehabilitation treatment plan for assistance and compliance; and
4. the employee shall agree to submit to return to work testing demonstrating that the employee has tested negative for alcohol and/or controlled substance test standards; and
5. the employee shall agree to unannounced follow-up testing for a period of time as determined by the policy administrator or designee subsequent to the employee's return to work and consistent with this policy; and
6. the employee, if assigned to a DOT/Safety-sensitive position, will continue to be a participant of the random drug testing pool and ordered to submit to a random drug test as outlined in this policy; and
7. the employee shall agree that any future alcohol or controlled substance violations will result in the termination of employment.

26.10 Contractual Support Professionals

(a) The City of Springfield shall secure a contract with an appropriately *certified testing laboratory* to engage its services to conduct the controlled substance testing analysis and reporting as required under this policy and standards established under federal regulations.

~~(e)~~(b) The City of Springfield shall engage the services of an independent contractor to serve the City of Springfield as the MRO (Medical Review Officer) being properly credentialed and trained in compliance with federal regulations, and who shall not be an employee of the City of Springfield. The MRO shall, as a part of the contract, maintain all relevant records and provide the required reports necessary for the City of Springfield to comply with the federal reporting requirements.

(c) The City of Springfield shall engage the services of a SAP (Substance Abuse Professional) for providing services under this policy and in compliance with the federal regulations.

26.11 Education & Training

(a) The City of Springfield shall provide all employees with a copy of the policy and materials related to the effects of the use and/or abuse of alcohol and controlled substances. The City of Springfield shall also provide information to employees regarding treatment and rehabilitation services available to them. Employees shall be required to confirm receipt of this policy and, any revisions; ~~and educational materials~~ in writing noting the

date of receipt, and acknowledgment by signature as witnessed by the supervisor providing the materials.

(b) The City of Springfield shall develop and provide training for all supervisors and managers who are responsible for the administration and enforcement of this policy. ~~DOT/Safety-sensitive S~~supervisors and managers will receive a minimum of sixty (60) minutes of training. Training, at the minimum, will include the physical and behavioral effects on personal health, safety, work environment and performance indicators of alcohol use and abuse, the side affects of abuse, and the consequences of prohibited work-related activity involving alcohol consumption, and a component related to objective observation for reasonable suspicion testing, documentation and record keeping. The training shall include an overview of this policy and its implementation and application to employees. will receive training as mandated by Ffederal regulations. All supervisors will receive training including an overview of this policy and application to employees.

26.12 Confidentiality

(a) All records developed and/or pursuant to this policy shall be maintained under strict confidentiality by the City of Springfield, the testing laboratory, the MRO, and the SAP, when and as applicable. The records shall be maintained separately from other personnel records maintained by the City of Springfield and shall be maintained in a secured location. Materials shall not be released without the employee's authorized written consent, except under provisions as provided in the federal regulation such as under the rehabilitation contract, litigation, or a quasi-judicial and/or administrative proceeding related to positive test results and/or matters initiated by an employee.

(b) Any person breaching the confidentiality provisions of this policy shall be subject to termination from employment and/or from any contractual relationship with the City of Springfield.

26.13 Disciplinary Issues

(a) Unless otherwise specified in the policy, the City of Springfield's policies related to disciplinary action shall be followed when imposing discipline for violation of this policy. Employees are required to seek help for alcohol and/or controlled substance problems. Employees who voluntarily seek help prior to submitting to random testing for alcohol or controlled substances will not face disciplinary action for admitting he/she has a problem, nor for seeking treatment for such a problem. However, request for assistance after a positive alcohol or controlled substance test result is received or refusal to submit to any

other testing outlined in the policy, will not be honored and the City of Springfield will take action to terminate employment. Any supervisor or manager who knowingly permits an employee to violate this policy or engage in work activity while consuming alcohol or a controlled substance or fails to enforce this policy, shall be subject to immediate termination from employment.

(b) This policy does not displace any other penalties that may be imposed or be incurred as a result of violation of the City of Springfield policy or state and federal laws, or as provided in the workers' compensation laws.

26.14 Coordination with other Laws & Policies

(a) This policy shall be administered in compliance with other federal, state, and local laws related to employee health and welfare policies, leave policies, benefit programs, and other related policies of the City of Springfield. In the case of apparent conflicts between this policy, other policies, and applicable laws, the policy administrator shall make the appropriate ruling to resolve the potential conflicts, whenever possible.

(b) In the event that any part of this policy is judicially determined to be in conflict with any law or to be in violation of any law or is rendered ineffective because of a state or federal legislative enactment, that part(s) shall be void, but the remainder of the policy shall remain in effect. Parts that are void or voided shall be replaced as soon as possible so as to maintain the full effect of this policy and/or to bring it into compliance with relevant laws.

26.15 Amendments

This policy is subject to amendment by the City of Springfield from time to time. Amendments that are made shall be provided to employees upon adoption and shall become effective as determined by the policy administrator.

26.16 Statement of Intent to Comply with the Requirement of the Drug Free Work Place act of 1988, Pub.L. 100.690, Title V, Subtitle D

In addition to the provisions above in the Alcohol and Controlled Substance Testing Policy of the City of Springfield, and in accordance with the requirements placed on the City of Springfield by the provisions of the Drug Free Work Place Act or 1988, Pub. L 100.690, Title V, Subtitle D, all employees, in every position, in every department of the City of Springfield are hereby notified of the following:

The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited on, about or within any property which is owned, leased, operated, used, or occupied by the City of Springfield, as a vehicle or site for the performance of work done in connection with a specific federal grant. Employees who violate this prohibition will be subject to disciplinary action up to and including termination of employment; or a combination of these actions, in accordance with the provisions of the Alcohol and Controlled Substance Testing policy of the City of Springfield.

- a. In furtherance of the City's obligation to provide a drug-free work place, the Employee Assistance Program or Substance Abuse Professional shall establish a drug-free awareness program to inform employees about:
 1. the dangers of drug abuse in the work place;
 2. the City's policy on maintaining a drug-free work place;
 3. available sources for drug counseling, rehabilitation and employee assistance for substance abuse problems; and
 4. the penalties which may be imposed on employees who commit drug abuse violations in the work place.
- b. Every employee who is engaged in the performance of any work connected with a federal grant shall be provided with a copy of this statement and or the Alcohol and Controlled Substance Testing Policy of the City of Springfield.
- c. Every employee who is engaged in the performance of any work connected with a federal grant shall, as a condition of employment under the grant;
 1. Abide by the terms of this statement and of the City's Alcohol and Controlled Substance Testing Policy.
 2. Notify the City of Springfield of any criminal drug statute conviction for a violation occurring in the work place no later than five (5) days after such conviction.
- d. The City of Springfield will notify the federal agency, through which a grant is administered, within ten (10) days after receiving notice under subparagraph (c),(2) from an employee or otherwise receiving actual notice of such conviction.
- e. The City of Springfield will take one or more of the following actions within thirty (30) days of receiving notice under subparagraph (e), (2), against any employee who is so convicted;
 1. Impose appropriate personnel action against such employee, up to and including termination of employment;

2. Require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local law enforcement, or other appropriate agency.
- f. The City of Springfield will make a good faith effort to continue to maintain a drug-free work place through implementation of the provisions of the statement and of the Alcohol and Controlled Substance Testing Policy of the City.

The City of Springfield is committed to providing its employees a safe, healthy and drug-free work place. The cooperation of all employees is necessary in order to achieve our goal.