

**AN ORDINANCE ADOPTING A DRUG AND ALCOHOL ABUSE POLICY  
AND AUTHORIZING PARTICIPATION IN THE ILLINOIS MUNICIPAL LEAGUE  
DRUG AND ALCOHOL COMPLIANCE TESTING PROGRAM**

**WHEREAS**, the Federal Motor Carrier Safety Regulations, 49 C.F.R Part 40, require that all employees of the Village with a Commercial Driver's License ("CDL") consent to random drug and alcohol testing as term and condition of employment, and require the Village of Chatham to adopt a Drug and Alcohol Policy and implement random testing on January 1, 1996;

**WHEREAS**, the Illinois Municipal League has implemented a Drug and Alcohol Compliance Testing Program for member municipalities, which requires, among other things, adoption by the municipalities of the model Drug and Alcohol Policy attached hereto as Exhibit "A", and further, that each covered employee execute a Drug & Alcohol Policy Receipt Certificate attached hereto as Exhibit "B";

*NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF CHATHAM, SANGAMON COUNTY, ILLINOIS, AS FOLLOWS:*

**SECTION 1:** That certain Drug and Alcohol Abuse Policy attached hereto as Exhibit "A" is hereby adopted, to apply to all "Drivers" as that term is defined therein;

**SECTION 2:** Each employee-"driver" shall review the Drug and Alcohol Abuse Policy and shall execute the Receipt Certificate attached hereto as Exhibit B.

**SECTION 3:** The Village hereby joins the Illinois Municipal League Drug and Alcohol Compliance Testing Program. The Village Administrator is authorized and directed to complete all forms and do all things necessary to implement this program.

**SECTION 4:** This Ordinance is effective immediately.

PASSED this 28 day of November, 1995.

Linda Kuster  
VILLAGE PRESIDENT

ATTEST:

Rennay Momey  
Village Clerk

AYES: 5

NAYS: 0

PASSED: 11-28-95

APPROVED: 11-28-95

ABSENT: 1

## DRUG & ALCOHOL ABUSE POLICY

### 1. PURPOSE

The purpose of this policy is to perform the necessary drug and alcohol testing pursuant to the federally mandated requirements under 49 CFR Part 40 and Part 382. The drug-related requirements of this policy become effective

~~January 1, 1996~~ (date) The alcohol-related requirements under this policy become effective

~~January 1, 1996~~ (date)

### 2. DEFINITIONS

For the purpose of this policy, the words and terms defined in this Section shall have the meaning therein given, unless the context otherwise clearly requires.

"Driver" means any person who operates a commercial motor vehicle as defined in 49 CFR Part 382.107. This includes, but is not limited to: full-time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer. For the purpose of pre-employment / pre-duty testing only, the term driver includes a person applying to an employer to drive a commercial motor vehicle.

"Safety-sensitive function" means any of those on-duty functions set forth in 49 CFR Part 395.2, paragraphs (1) through (7).

### 3. USE PROHIBITED

The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance or alcohol is prohibited on all municipal premises; in any municipally-owned or leased motor vehicle, or other location at which the driver is to perform work. Nor will this municipality hire or retain any individual who uses or possesses any illegal drug, in any amount and regardless of frequency, or any individual who engages in prohibited alcohol-related conduct.

3.1 The municipality will maintain a pre-employment screening program designed to prevent hiring anyone who uses any illegal drugs, or engages in prohibited alcohol-related conduct.

3.2 No driver will consume any Schedule 1 drug of the Schedule of Controlled Substance of the Drug Enforcement Administration or any amphetamines, narcotics, opiates, hallucinogenic substances, depressants, stimulants, or any other habit-forming drug while on or off duty, except as provided in Section 3.4.

3.3 No driver shall report for work or drive while impaired by any drug, controlled substance, or with an alcohol breath concentration of .02 or greater.

3.4 A driver may use a substance administered by or under direction of a physician who has advised the driver that the substance will not affect the driver's ability to safely operate a motor vehicle.

3.5 No driver may operate any motor vehicle whose motor senses, sight, hearing, balance, reaction, reflexes or judgement are or may be presumed affected or has consumed any alcohol within 4 hours.

3.6 Any driver who sells or otherwise dispenses illegal drugs or alcohol to others on municipal premises, in or from a municipally-owned or leased motor vehicle is subject to immediate termination.

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EXHIBIT A

## 4. DRUG & ALCOHOL TESTING

### DRUG TESTING

This municipality will require drug testing in accordance with Federal Motor Carrier Safety Requirements as set forth in Part 40. Effective August 15, 1994, all urine samples shall be split-samples. The "primary sample" shall be at least 30 ml. of urine; the "split sample" shall be at least 15 ml. Failure of the driver to provide that quantity even after a 2 hour second opportunity following drinking up to 24 oz. of water, will cause the driver to be referred for a medical evaluation to develop pertinent information whether the driver's inability to provide a specimen is genuine or constitutes a refusal to test. The medical evaluation shall go to the M.R.O. who will make a conclusion in writing to the employer. While this process is being accomplished the driver shall be placed out of service.

### ALCOHOL TESTING

The municipality will require alcohol testing in accordance with Federal Motor Carrier Safety requirements as set forth in Part 40. Two breath tests are required to determine if a person has a prohibited alcohol concentration. A "screen test" shall be conducted first. Any result less than .02 alcohol concentration is considered a "negative test." If the alcohol concentration is .02 or greater, a second or "confirmation test" must be conducted. This test shall be by a "Evidential Breath Testing" device, that prints out the results, date, time, a sequential test number, name and serial number of the E.B.T. The alcohol test must be conducted by a "Breath Alcohol Technician" (B.A.T.) who is trained to operate that E.B.T. and is proficient in all breath alcohol testing procedures.

Drivers shall only be tested for alcohol while performing a safety-sensitive function, just before performing a safety-sensitive function, or just after performing a safety-sensitive function. Any test .02 or greater but less than .04 shall cause the driver to immediately be removed from driving or any other safety-sensitive function for at least 24 hours. Failure of the driver to provide an adequate amount of breath will cause the driver to be immediately referred for a medical evaluation to develop pertinent information concerning the driver's inability to provide the adequate amount of breath is genuine or constitutes a refusal to test. The physician shall submit a written medical evaluation to the M.R.O. who will make a conclusion in writing to the employer. While this process is being accomplished the driver shall be placed out of service.

- 4.1 For the purposes of compliance with the Federal Motor Carrier Safety regulations, all drivers will be required to take and successfully pass urine drug testing and breath alcohol testing. Refusal to submit to such screenings is considered a positive test.
- 4.2 Pre-employment: Applicants for positions as drivers will also be required to take and successfully pass urine drug tests and alcohol breath test before they can be used as drivers; except, applicants that have taken part in qualified programs in the last 30 days and tested in the last 6 months or in a random program in the last 12 months with no positive results.
- 4.3 The following information must be obtained on any new driver from previous employers for the past two years: any positive drug test or alcohol test of .04 or greater, including any refusals to be tested. Every new employee shall provide to this municipality a written release which authorizes this municipality to obtain the driver's past drug and alcohol test results. No driver shall be used for more than 14 days while these test results are being secured. Regulations prohibit the use of any driver after 14 days if these test results have not been obtained. Any driver found to have had a positive test result in these 2 years shall cause the employer to further obtain information on the subsequent Substance Abuse Professional's evaluation and/or determination under Section 382.605 and determine if there was compliance with Sections 382.309 and 382.311. If not, the driver cannot be used until in full compliance.
- 4.4 Periodic: All drivers may be required to submit to a urine drug test and breath alcohol test at least every two years at the same time as the biennial medical examination occurs.
- 4.5 Reasonable Cause: Any driver suspected of drug or alcohol use as a result of reasonable evidence upon reporting to work during the work day, or upon completion of his day's work activity may be subjected to a reasonable cause urine drug or breath alcohol test. Refusal to submit to such screening will be considered a positive test. A reasonable cause observation form must be completed and signed by at least one qualified supervisor within 24 hours of the observation that led to a reasonable cause test.
- 4.6 Random Testing:
  - (A) All employees covered by this policy will be included as a part of the Mid-West Truckers Association Drug & Alcohol Test Consortium group from which the Consortium will randomly select 50% each year for drug testing

- and 25% each year for breath alcohol testing per the requirements of Section 382.305 and 49 CFR Part 40.
- (B) On a monthly basis our Medical Review Officer (MRO) will from the total group select randomly on his computer a number to be tested that on an annual basis will equal 50% of that total group for random drug testing and 25% for breath alcohol testing. This same process will be repeated each month.
- (C) Once the MRO makes the monthly selections, he will forward that list to the consortium which will notify the employer under whose drug policies those selected are covered. The municipality will be given a date before which the individual must be tested per these random selection processes. The person to be tested shall not be informed of the need to be tested except just prior to the actual test being performed.
- (D) Failure of the municipality to accomplish the above requirements in the time allotted will cause them to be out of compliance with the random testing requirements of 49 CFR Part 40.

**4.7 Post Accident Testing:**

- (A) This municipality will require post-accident urine drug and breath alcohol testing of all employees covered by this policy as required by Section 382.303 and 49 CFR Part 40.
- (B) Post-accident urine drug and breath alcohol testing will be required of those employees who are involved in an accident if the driver receives a citation for a moving traffic violation arising from the accident or there is a fatality.
- (C) The post-accident urine drug test shall be conducted as soon as possible but not later than 32 hours after the reportable or fatal accident. If the test is not administered the employer shall prepare and maintain on file a record stating the reasons the test was not promptly completed. If a breath alcohol test is not conducted within 2 hours a record shall be prepared and retained stating why. If in 8 hours a test is still not conducted, all attempts shall cease and a complete record made of why it was not accomplished. In addition, the driver shall not consume any alcohol for at least 8 hours following an accident or until a breath alcohol test has been accomplished.
- (D) A driver who is seriously injured and cannot provide a urine specimen or breath alcohol test at the time of the accident shall provide the necessary authorization for obtaining medical records and reports that would indicate if a controlled substance or alcohol was in the driver's system and the level present.
- (E) The employer shall provide the driver with sufficient procedures so that the driver can meet the requirements of paragraphs 4.7 (A), (B), (C), (D), and comply with all provisions of 49 CFR Part 40.
- (F) Failure of the driver to be readily available or refusal to give a urine sample or breath alcohol test when the driver has been involved in a fatal accident, or received a citation for a moving violation, except for a driver who meets the conditions of 4.7 (D) shall be considered a refusal to take a test and a positive test result.

**5. TEST RESULTS**

**DRUG TEST RESULTS**

Test results will be reviewed to determine whether there is any indication of a controlled substance abuse.

- 5.1 The test results will be reviewed by a Medical Review Officer (MRO). If there is any evidence of a positive result the MRO will give the person tested an opportunity to discuss the results and provide documentation of legally prescribed medication.
- 5.2 The results will be released to the Medical Review Officer, who will then release the results to the Mid-West Truckers Association (our drug test consortium), which will forward them to the Illinois Municipal League, which will forward those results to this municipality, which will maintain them in a secure location with controlled access.

**ALCOHOL TEST RESULTS**

- 5.3 The test results shall be provided on forms established by Subpart C 40.59 Appendix A. Copy 1 (white) will be retained by the Breath Alcohol Technicians (BAT), copy 2 (green) shall go to the employee, copy 3 (blue) shall be transmitted to the employer.

**GENERAL**

- 5.4 The test results from all drug and alcohol tests will become a part of the driver's qualification file which shall be in a secured location with controlled access and retained as specified in Section 382.401 or in this policy.
- 5.5 The results will not be released to any unauthorized party without written consent. Every driver upon termination is required to permit in writing the release of their urine drug and breath alcohol test results for at least two years to any future employer. Every employer is required upon the receipt of a written request of a driver to provide copies of all his or her urine drug and breath alcohol test results promptly to any other possible employer at no charge.

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## 6. ASSISTANCE PROGRAM

An employee assistance program will be conducted by this municipality to provide educational information concerning the effects and consequences of drug or alcohol use on personal health, safety and work environment.

- 6.1 Every driver will be required to take at least one hour of training each year on substance abuse and alcohol use, and sign form IML-10 certifying your attendance.
- 6.2 Written notice will be given when this training is available.

## 7. LAWS & REGULATIONS

- 7.1 This municipality will comply with all federal, state and local laws and regulations concerning any violations of criminal drug and alcohol use status in the work place.
- 7.2 Record keeping: all records will be retained as listed in Section 382.401.
- 7.3 A driver is entitled, upon written request, to obtain copies of any records pertaining to the driver's use of drugs or alcohol, and test results. Access shall not be contingent upon payment for records other than those requested.
- 7.4 Records shall be made available to a subsequent employer upon receipt of a written request from a driver.
- 7.5 An employer may disclose information required to be maintained under this policy on a driver, to the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of that driver and arising from the results of an alcohol or controlled substance test required by this policy, or from the employer's determination that the driver engaged in conduct prohibited by this policy. (Including but not limited to worker's compensation, unemployment compensation, or other proceeding related to benefits sought by the driver.)

## 8. DISCIPLINARY ACTION OPTIONS (Check the one option that applies to your municipality, since federal law requires that all safety sensitive employees within a municipality must be treated uniformly)

**OPTION #1**

- 8.1 Violations of this policy will result in termination.
- 8.2 Every driver who has engaged in violations of this policy will be advised by the employer of resources available to the driver in evaluating and resolving problems associated with the misuse of drugs or alcohol, even though the driver is terminated.

**OPTION #2**

- 8.1 After 2 violations of this policy the driver shall be terminated.
- 8.2 Every driver who has engaged in violations of this policy will be advised by the employer of resources available to the driver in evaluating and resolving problems associated with the misuse of drugs or alcohol.
- 8.3 (A) Prior to being eligible for return-to-duty testing a driver must be evaluated by a Substance Abuse Professional; who shall set up any assistance needed. When the driver has complied with all the recommendations of the SAP, the driver must request the results of the evaluation and notification of release be given in writing to our MRO.  
(B) The MRO shall then subject such drivers to at least 6 unannounced urine drug tests or breath alcohol tests in the first 12 months after return to duty. Follow-up testing shall not extend beyond 60 months, per 382.605.  
(C) All records in reference to the referrals, evaluation, return-to-duty and follow-up testing shall be retained for five years.

**THIS IS NOT AN EMPLOYMENT CONTRACT**

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**DRUG & ALCOHOL POLICY  
RECEIPT CERTIFICATE**

I, \_\_\_\_\_, do hereby certify that I have  
(DRIVER'S NAME)  
received, read, and understand the copy of the Drug and Alcohol Policy, effective \_\_\_\_\_ and  
(DRUG)  
\_\_\_\_\_, and issued by \_\_\_\_\_, attached  
(ALCOHOL) (MUNICIPALITY NAME)  
hereto, each page of which I have initialed this date.

I hereby accept the policy as a term of employment. I also understand I am going to be requested to take and successfully pass urine and breath alcohol tests as a condition of employment. Furthermore, I agree to comply with all of the requirements of the Federal Motor Carrier Safety Regulations (49 C.F.R. Part 40) and all other federal, state and local rules and laws.

I give my full consent to the release of the drug test results to the authorized Medical Review Officer, who will then release results to the Mid-West Truckers Association, Inc. (our drug test consortium) which will forward them to the Illinois Municipal League, which will forward the results to the above-named municipality.

I further consent to the release of my alcohol test results to the collection company performing the test and to the Mid-West Truckers Association, Inc. (our drug test consortium), which will forward them to the Illinois Municipal League, which will provide copies to the above-named municipality.

I further understand that my failure to honor all the terms of this certificate and the above-referred Drug / Alcohol Testing Policy is grounds for immediate termination of my employment.

\_\_\_\_\_  
Print Employee Name

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Home Phone Number

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Date

**ORDINANCE CERTIFICATE**

STATE OF ILLINOIS        )  
                                  ) SS.  
COUNTY OF SANGAMON     )

I, the undersigned, do hereby certify that I am the duly qualified and acting Village Clerk of the Village of Chatham, Sangamon County, Illinois.

I do further certify that the ordinance attached hereto is a full, true, and exact copy of Ordinance No. 95-\_\_\_, adopted by the President and Board of Trustees of said Village on the \_\_\_ day of \_\_\_\_\_ 1995, said Ordinance being entitled:

**AN ORDINANCE ADOPTING A DRUG AND ALCOHOL ABUSE POLICY  
AND AUTHORIZING PARTICIPATION IN THE ILLINOIS MUNICIPAL LEAGUE  
DRUG AND ALCOHOL COMPLIANCE TESTING PROGRAM**

I do further certify that prior to the making of this certificate, the said Ordinance was spread at length upon the permanent records of said Village, where it now appears and remains.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said Village this \_\_\_ day of \_\_\_\_\_, 1995.

\_\_\_\_\_  
Village Clerk