

CHAPTER 11

EMPLOYEES

ARTICLE I PERSONNEL CODE

1111 DEFINITIONS. The following terms as used in this Article shall have the meanings indicated:

(A) **"DEPARTMENT HEAD OR SUPERINTENDENT".** Any appointed person who has direct supervision and responsibility for personnel, records, funds, maintenance and service to be performed by a municipal department.

(B) **"FULLTIME EMPLOYEE".** Any person who works **forty (40) hours** per week unless otherwise provided for.

(C) **"PARTTIME EMPLOYEE".** Any person who works less than **forty (40) hours** per week unless otherwise provided for. Part-time employees are paid by the hour for all hours worked and are not eligible for sick leave, vacation leave, holiday pay, etc.

(D) **"TEMPORARY EMPLOYEE".** Any person who is hired on temporary or seasonal basis (less than **six (6) months**). Temporary employees are paid by the hour for all hours worked and are not eligible for sick leave, vacation leave, holiday pay, etc. Notwithstanding any other provisions of this Chapter, temporary employees shall not be required to reside within the City limits. **(Ord. No. 1284; 02-02-04)**

1112 APPLICABILITY. The provisions of this Article will apply to all employees, (except elected officials) including full-time, part-time and temporary employees unless stated otherwise. **(Ord. No. 1284; 02-02-04)**

1113 APPOINTMENT OF OFFICIALS AND SUPERVISORY PERSONNEL. The Mayor, with the advice and consent of the City Council, shall appoint all personnel with departmental supervisory or official capacity. **(See Chapter I; Article II of this Code)** **(Ord. No. 1284; 02-02-04)**

11-1-4 EMPLOYMENT OF PERSONNEL.

(A) **Full-Time Employees.** Upon recommendation by a Department Superintendent, if applicable, and upon completion of all application requirements, including but not limited to a criminal background check and possession of a valid Illinois Driver's License, full-time, non-police employees shall be hired by the Mayor with the advice and consent of the City Council. Police appointments shall be made pursuant to the Board of Fire and Police Commissioners Act. The Municipal Clerk shall appoint the various clerks and subordinates in his or her office pursuant to **65 ILCS 5/3.1-10-45** and with the advice and consent of the City Council. **(Ord. No. 1603; 05-18-15)**

(B) **Part-Time/Temporary Employees.** Part-time and temporary employees shall be hired by the Mayor and City Council and shall possess a valid Illinois Driver's License. Temporary employees shall have a start and end date specified at the time of hire. Any extensions to this schedule shall be approved by the Mayor and City Council. **(Ord. No. 1603; 05-18-15)**

(C) **Utility Pool of Employees.** All employees of the various utilities of the City (Water Department consisting of the Water Plant and the Water Distribution System, Sewer Department, Gas Department, Street Department, Park Department and Cemetery Department) shall be considered to be in a Utility Pool of Employees so that any employee whether he/she be full-time or part-time, including the Recreational Director, Cemetery Sexton and Cemetery Clerk, may be assigned to work in another department different from the department in which he/she normally works or at the direction of another Superintendent if necessary. An employee who is assigned to work in a different department than he/she normally works or at the direction of another Superintendent shall receive the same salary that he/she normally receives. **(Ord. No. 1460; 06-15-09)**

1115 PHYSICAL EXAMINATION. Applicants who have received a conditional offer of employment will be required to take a physical examination and drug test by a physician of the City's choosing before starting work. The examination will be given in order to determine whether or not the employee is physically able to perform the essential functions of the job. The physician's examination fee shall be paid for by the City. The results of the physical examination shall be maintained in a separate file and be treated as confidential information and shall not be disclosed except as allowed by law. 42 U.S.C. § 1212(d)(3). Further, if it is determined by the examining physician that the employee is unable to perform the essential functions of the job, the City will attempt to reasonably accommodate the employee pursuant to ADA requirements. **(Ord. No. 1036; 021693) (Ord. No. 1284; 02-02-04)**

1116 PROHIBITION AGAINST DISCRIMINATION. The City does not discriminate against any employee on the basis of race, sex, creed, religion, color, marital or parental status, age, national origin, political affiliation and/or beliefs, mental and/or physical handicap or disability, or any other characteristic that is currently protected by applicable law. **(Ord. No. 1284; 020204)**

1117 RESIDENCE REQUIREMENT. Personnel hereafter employed by the City must be bona fide residents of the City, except at the time of appointment or employment, when they need not be residents of the City, but shall establish residence in the City within **six (6) months**. Failure to maintain residency within the City shall be grounds for dismissal. This provision does not apply to temporary employees, volunteer Fire Department members, (whose residency is governed by Chapter 30, Section 30-5-5 of this Code), part-time police officers and part-time dispatchers (whose residency is governed by Chapter 30, Section 30-2-12(C)(6) of this Code), and Police Union Members whose residency is governed by their current contract with the City. Personnel shall maintain an up-to-date record of residence address with the City Clerk. **(Ord. No. 1606; 07-06-15)**

1118 RETIREMENT FUND. The City is a member of the Illinois Municipal Retirement Fund. All permanent, fulltime employees (except police

officers who have their own pension fund) must join this retirement fund and pay a portion of their salary through payroll deductions. The City excludes from participation in the Illinois Municipal Retirement Fund all officials and employees in positions normally requiring performance of duty for less than **one thousand (1,000) hours** per year. Employees in positions normally requiring performance of duty for **one thousand (1,000)** or more hours per year (except police officers who have their own pension fund) must join this retirement fund and pay a portion of their salary through payroll deductions. The City also participates in contributing to the retirement system. Each participating employee receives credits for purpose of determining the amount of annuity or benefits to which he/she is entitled. The fund also pays disability benefits. **(Ord. No. 1308; 10-04-04)**

1119 HEALTH INSURANCE. The City may provide health and dental insurance for all full-time employees. The City may from time to time at its discretion adjust the portion of the health and/or dental insurance premium which the City pays. The length of time one must work prior to health insurance eligibility shall be governed by the City's current health insurance contract. Payroll deductions can be made for dependent coverage if requested by the employee. **(Ord. No. 1284; 02-02-04)**

11110 ACCIDENT REPORTS. Personnel involved in or having knowledge of any accident in which any person employed by the City or any property or equipment owned by the City is involved shall immediately report the accident and pertinent information to the Department Superintendent who shall forward such information to the office of the Risk Management Coordinator. The coordinator shall record the information on **three (3) copies** of the applicable accident form, **one (1) copy** to be forwarded to the insurance carrier, **one (1) copy** to the City Attorney, and **one (1) copy** retained on file. **(Ord. No. 1284; 02-02-04)**

11111 DISMISSAL/DISCIPLINE. All non-police, non-union employees of the City shall be employed at the will of the City and may be dismissed by the Mayor with the advice and consent of the City Council at any time with or without cause. The Personnel Code is not a promise of employment or continued employment, is not a contract and may be altered or deleted at any time, with or without notice. This Section shall not apply to any police or union employees nor to the City Clerk's employees whose dismissal shall be made by the City Clerk with the advice and consent of the City Council.

In addition to the foregoing, the Mayor and/or the Mayor's designee in his absence shall have the authority to discipline employees including the power to impose reprimands and suspensions. Any suspension imposed shall not exceed **thirty (30) days**. All disciplinary actions shall be subject to review by the City Council at the request of the employee. The employee's request shall be in writing and submitted to the Mayor within **ten (10) days** from the date the disciplinary action was taken. If no request for review is received by the Mayor within the stated time period, the disciplinary action shall be deemed final. **(Ord. No. 1284; 02-02-04)**

11112 **APPOINTED OFFICIALS.** Except where otherwise provided by statute, the Mayor may remove any officer appointed by the Mayor under this Code, on any written charge, whenever the Mayor is of the opinion that the interests of the City demand removal. The Mayor shall report the reasons for the removal to the corporate authorities at a meeting to be held not less than **five (5) days** nor more than **ten (10) days** after the removal. If the Mayor fails or refuses to report to the corporate authorities the reasons for the removal, or if the corporate authorities by a **twothirds (2/3) vote** of all members authorized by law to be elected disapprove of the removal, the officer thereupon shall be restored to the office from which the officer was removed. The vote shall be by yeas and nays, which shall be entered upon the journal of the corporate authorities. Upon restoration, the officer shall give a new bond and take a new oath of office. No officer shall be removed a second time for the same offense. **(65 ILCS 5/3.1-35-10) (Ord. No. 1284; 02-02-04)**

11113 **OUTSIDE EMPLOYMENT.** No municipal employee shall be engaged in any outside employment which will impair the performance of his or her duties or be detrimental to the municipal service. **(Ord. No. 1284; 02-02-04)**

11114 **DUES AND CHECKOFF.** Employees may authorize the payroll clerk to deduct or checkoff from their paycheck, the amount of their dues to a labor union, organization or association, to which the employee belongs so long as such labor union, organization or association shall have a minimum of **six (6) employees** of the City, authorizing such deduction, or provided that more than **fifty percent (50%)** of the eligible members of any given municipal department authorize such deduction. Any employee desiring such deduction shall sign an authorization card which shall be effective until the end of the municipal fiscal year in which that card is submitted to the payroll clerk. If any employee desires to revoke the authorization during the fiscal year, he/she shall so notify the payroll clerk, in writing, at least **thirty (30) days** prior to the date he/she wishes to revoke the authorization. **(Ord. No. 1284; 02-02-04)**

11115 **GRIEVANCE.** Employees with any grievance arising out of their employment by the City, except requests for a general wage increase, shall have the right of appeal to their immediate department supervisor. Appeal shall be made in writing and may be presented by the employee individually, or by the employee's selected representative. In the event the grievance cannot be settled between the department supervisor and the employee, or his/her selected representative, the department supervisor shall submit a report in writing, **one (1) copy** to the Chairman of the Department's Committee, and **one (1) copy** to the Mayor. The Mayor shall have the final decision with the exception of a grievance for a dismissal which shall be made by both the Mayor and the City Council and disciplinary actions which are appealable to the City Council per **Section 11-1-11. (Ord. No. 1284; 02-02-04)**

11116 **EMPLOYEE ORGANIZATIONS.** Employees of the City may fully and freely associate themselves in organizations of their own choosing for their mutual benefit. No employee shall be required by the City to join any such organization as a condition of employment or continuation thereof. The right of an employee with or without such an organization to petition the Mayor and the City Council is hereby recognized. Employees of the City shall have the right to organize and designate representatives of their own choosing from among themselves for the purpose of collective bargaining and the right of such representative to meet with designees of the Mayor and City Council is hereby recognized. Employees shall have the right to negotiate with the designees of the Mayor and City Council without representation, if they see fit to do so. Such collective bargaining or negotiation shall be conducted at a designated time and place as is agreed upon by the employees and their representatives and the designees of the Mayor and City Council. Nothing shall be construed herein by anyone that the City waives any rights, recourse or remedies available to it under the Illinois Public Labor Relations Act nor shall this be construed to be a grant of recognition to any person or group as a bargaining agent for any employee of the City. **(Ord. No. 1284; 02-02-04)**

11117 **POLITICAL ACTIVITY.** No City employee shall be required to contribute any money or anything of value to any candidate for nomination or election to any office or to any campaign or political committee or take part in any political campaign except to cast his/her vote and to express his/her personal opinion. **(Ord. No. 1284; 02-02-04)**

11118 **MILITARY LEAVE.** The City will comply with all applicable laws relating to employees' military obligations, including but not limited to the Uniformed Services Employment and Re-employment Rights Act, 38 U.S.C. § 4301 et seq. and the Public Employee Armed Services Rights Act, 5 ILCS 330/1 et seq. **(Ord. No. 1284; 02-02-04)**

11119 **ATTENDANCE IN COURT.** Any employee called for jury duty or subpoenaed by a legislative, judicial, or administrative tribunal, shall be allowed time away from work with pay, except in matters of nonwork related personal litigation, for such purposes. Upon receiving the sum paid for jury service or witness fees, the employee shall submit the warrant, or its equivalent, to the agency to be returned to the fund in the City Treasury from which the original payroll warrant was drawn. If an employee is reimbursed for mileage, he/she is entitled to keep this amount. Provided, however, an employee may elect to fulfill such call or subpoena on accrued time off and retain the full amount received for such service. An employee called for reasons contained herein shall have such days considered as days worked for the purpose of scheduling. In addition, an employee shall be given an equal amount of days off from work on his or her next pay period for any days which

he/she would otherwise not have worked. On any day when such employee is excused from jury duty, he/she will be expected to report for duty at the regular place of work if within reasonable commuting distance or be charged annual leave for the time excused from jury duty. Likewise, any period of time for which an employee is excused from jury duty because of illness shall be charged against sick leave. **(Ord. No. 1284; 02-02-04)**

11120 **LEAVE OF ABSENCE.** Leave of absence without pay may be granted for a period not to exceed **six (6) months** when the granting of such leave is in the mutual interests of the City and the employee. Such leave shall require approval of the Department Superintendent and the Mayor. The employee shall not accrue employee benefits while on leave without pay. However, premiums for insurance programs provided by the City may be paid by the employee during this period.

11121 **ABSENCE WITHOUT LEAVE.** No employee may absent himself from duty without permission of his department head. Absence without leave shall be sufficient cause of forfeiture of all rights and privileges earned while employed. Any employee absent for **three (3) consecutive working days** without notice and without sufficient reason shall be considered to have resigned.

11122 **SPECIAL LEAVE.** Employees or officials on special leave for official City business, special education, or training, upon authorization by the City Council, shall receive a regular pay during the period of the leave. It is further provided that the Council may authorize that all necessary expenses be paid by the City.

11123 **TRAVELING EXPENSE.** Request for travel expense funds for official City business, special education or training shall be submitted for Council approval. An employee is expected to show good judgment and an appreciation for economy when incurring travel expenses. Staff vehicles are to be used only for activities directly related to the conduct of business. Under no circumstances are the vehicles to be used for personal activities. Reimbursement is provided for the use of employee's private vehicles for official business at the rate designated by the State of Illinois for actual mileage traveled. Private vehicles will only be used when Department vehicles are not available and prior approval is given by the Mayor. Use of staff vehicles is restricted to employees who have a valid driver's license with current liability insurance. Employees are not permitted to use vehicles without the knowledge of their supervisor or Superintendent.

11124 **RESIGNATION.** All benefits cease at midnight on the date of termination with the exception of insurance benefits that will cease at the end of the month of the termination. Employees may elect to continue participation in the City's insurance plan on a self-pay basis as provided by federal statutes. The employee will be paid for all accrued and unused time as provided elsewhere in Chapter 11 of this Code. Monies accumulated in the employee's retirement account may be refundable according to IMRF rules. Forms required to request this refund are available from the City Clerk's office.

11125 **WORK DAYS AND WORK WEEK.** Unless otherwise agreed upon or provided for and except in cases of emergency, as determined by the Department Supervisor or Mayor, the municipal work week shall be **forty (40) hours** per week. There shall be provided at least **eight (8) hours** rest in each **twentyfour (24) hour** period. Department Supervisors shall establish a normal work day specifically designating the starting time, the quitting time, and the lunch period. Employees shall be at their places of work according to these departmental regulations. All departments shall maintain a daily attendance record of employees, and file a daily report with the payroll clerk.

11126 **OVERTIME.** Overtime work is work in addition to the established schedule of hours of work per week and shall be kept to a minimum. Overtime shall be paid at the rate of **time and one-half (1 1/2) times** the rate for each hour of overtime put in by the employee.

11127 **LAYOFF AND RECALL.** The Mayor and City Council shall authorize the lay off of employees when necessary due to changes in duties or lack of work or funds.

In the event it becomes necessary to lay off employees for any reason, employees will be laid off based on the following criteria: Employee's knowledge, skills, and abilities in relation to positions available, lack of work, lack of funds, the employee's length of service, the employee's work record including commendations as well as disciplinary action, the employee's attitude and relations with other employees as well as other agencies and change in duties of the department. The employee shall receive **two (2) weeks'** notice.

11128 **HOLIDAYS.** Holidays to be observed with pay are: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Friday following Thanksgiving Day, Christmas Eve, Christmas Day, General Election Day (on which members of the House of Representatives are elected). When any such holiday falls on Sunday, the Monday next following shall be held and considered such holiday. When a holiday falls on a Saturday, the preceding Friday shall be observed as the holiday.

When a holiday falls on an employee's scheduled day off or an employee works on a holiday, equivalent time off shall be granted within the following **twelve (12) month** period. It shall be granted on the day requested by the employee unless to do so would interfere with the employer's operations, in which event the employee's next requested day off shall be given. A holiday earned must be used within **one (1) year** of the date the holiday was earned. When a holiday falls on an employee's regularly scheduled work day during the employee's vacation period, the employee will be charged with that holiday and retain the vacation day.

To be eligible for holiday pay, the employee shall work the employee's last scheduled work day before the holiday and first scheduled work day after the holiday, unless absence on either or both of these work days is for good cause and approved by the employee's Direct Supervisor or Mayor. **(Ord. No. 1283; 01-20-04)**

11129 VACATION. All fulltime municipal employees shall be eligible and earn vacation time in accordance with the following schedule:

(A) From the date of hire until the completion of **five (5) years** of continuous service: **ten (10) work days** per year of employment. **(.83/mo.)**

(B) From the completion of **five (5) years** of continuous service until the completion of **nine (9) years** of continuous service: **fifteen (15) work days** per year of employment. **(1.25/mo.)**

(C) From the completion of **nine (9) years** of continuous service until the completion of **fourteen (14) years** of continuous service: **seventeen (17) work days** per year of employment. **(1.42/mo.)**

(D) From the completion of **fourteen (14) years** of continuous service until the completion of **nineteen (19) years** of continuous service: **twenty (20) work days** per year of employment. **(1.67/mo.)**

(E) From the completion of **nineteen (19) years** of continuous service until the completion of **twenty-five (25) years** of continuous service: **twenty-two (22) work days** per year of employment. **(1.83/mo.)**

(F) From the completion of **twenty-five (25) years** of continuous service: **twenty-five (25) work days** per year of employment. **(2.08/mo.)**

When the beginning date of employment is between the **first (1st)** and **fifteenth (15th) day** of the month, vacation will be earned during that month. When employment begins after the **fifteenth (15th) day** of the month, accumulation will begin the following month. An employee may begin using vacation time after he/she has been employed for a period of **six (6) months**.

No employee of the City, while on leave of absence, may earn vacation time during such period or periods of leave of absence.

Vacation time may be taken in increments of not less than **one (1) hour** increments at a time and may be taken any time after it is earned. Vacation time shall not be accumulated for more than **twenty-four (24) months** after the end of the calendar year in which it is earned.

Vacation time earned shall be computed in work days. After an employee's earned vacation time has been so computed, if there remains a fractional balance of **onehalf (1/2)** of a work day or less, the employee shall be deemed to have earned vacation time of **one-half (1/2)** of a work day in lieu of the fractional balance; if there remains a fractional balance of more than **onehalf (1/2)** of a work day, the employee shall be deemed to have earned a full work day of vacation time in lieu of a fractional balance.

Such rounding off of fractional balances shall only be done upon an employee's request for vacation days in increments of **five (5) days** or more. However, no employee shall accumulate more than **one (1) day** per calendar year by rounding off under this Section.

If because of operating needs the employer cannot grant an employee's request for vacation time within the **twentyfour (24) month** period after the expiration of the calendar year such time was earned, such vacation time shall be liquidated in cash at straight time provided the employee has made at least **three (3) requests** for such time within the calendar year preceding liquidation.

Upon termination of an employee for any reason, the employee or the employee's estate shall receive pay for all unused accrued vacation days. Such shall be computed by multiplying the employee's daily rate by the number of days accrued vacation time.

(Ord. No. 1678; 05-21-18)

11130 SICK LEAVE. All fulltime employees, except for police officers who are covered by collective bargaining, shall accumulate earned paid sick leave at the rate of **one (1) day** for each month's service. When beginning date of employment is between the **first (1st)** and **fifteenth (15th) day** of the month, accrual will begin that month. When after the **fifteenth (15th)**, accrual will begin the following month. Probationary employees are eligible to use sick time. Sick time may be taken in increments of no less than **one (1) hour** at a time.

Sick leave may be used for illness, disability or injury of the employee, appointments with doctor, dentist or other professional medical practitioner, and not more than **thirty (30) days** in **one (1) calendar year** in the event of illness, disability, injury or death of a member of any employee's immediate family or household. For purposes of definition, this shall mean the husband, wife, mother, father, brother, sister, children, or any relative or person living in the employee's household for whom the employee has custodial responsibility or where such person is financially and emotionally dependent on the employee and where the presence of the employee is needed. Sick leave may also be used in the event of death of grandrelations and parentandchild-in-laws.

The operating agency or the Mayor may require evidence to substantiate that such leave days were used for the purposes herein set forth. The abuse of sick leave is grounds for dismissal.

Daily notification of sickness to the employee's supervisor is required and a request for time off sheet must be completed. The department head may require a doctor's certificate if absence becomes either excessive or questionable.

Present employees shall be allowed to accrue and carry over from year to year of continuous service any unused sick leave. Upon termination of employment for any reason, the employee will be entitled to receive payment for **one-half (1/2)** of the accumulated sick leave or **three hundred sixty (360) hours (forty-five (45) days)**, whichever is less. Remaining unused, unpaid sick time may be used for IMRF purposes in accordance with the rules and regulations of IMRF.

Any current employee with an accumulation of sick time of more than **seven hundred twenty (720) hours** as of **March 1, 2007**, will be entitled to receive payment for a maximum of **one-half (1/2)** of that accumulated sick time which remains unused upon termination of employment. Any remaining unused, unpaid sick time may be used for IMRF purposes in accordance with the rules and regulations of IMRF.

Any employee hired after the effective date of this Chapter shall be allowed to accrue and carry over from year to year of continuous service any unused sick leave, but such employee shall only be allowed to earn and accumulate up to a maximum of

seven hundred twenty (720) hours of sick leave. Upon termination of such employee for any reason, the employee will be entitled to receive payment for **one-half (1/2)** of the accumulated sick leave or **three hundred sixty (360) hours (forty-five (45) days)**, whichever is less. Remaining unused, unpaid sick time may be used for IMRF purposes in accordance with the rules and regulations of IMRF.

An employee who sustains an injury arising out of and during the course of his/her employment or who contracts an occupational disease, shall be allowed full pay during the first **three (3) calendar work days** that he/she is unable to work on account of same without utilization of any accumulated sick leave or other accumulated benefits. Thereafter, the employee shall be afforded such benefits as he/she may be entitled to in accordance with the Illinois Workers' Compensation Act or the Illinois Occupational Disease Act. If the employee is paid under the Workers' Compensation Act or the Occupational Disease Act for the first **three (3) calendar days** that he/she is unable to work, the City shall be reimbursed by the employee for these **three (3) days**. In the event such service-connected injury or illness becomes the subject of an award by the Industrial Commission, the employee shall restore to the City the dollar equivalent which duplicates payment received as sick leave days, and the employee's sick leave account shall be credited with the number of sick leave days used. **(Ord. No. 1390; 02-05-07)**

11131 **MATERNITY.** Maternity leave shall be treated like any other sickness and disability.

ARTICLE II - DRUG FREE WORKPLACE

11-2-1 DEFINITIONS.

(A) **"Drug Free Workplace"** means any place for the performance of work for or on behalf of the City, done by an employee of the City, or an employee of a contractor or subcontractor performing work for the City.

(B) **"Employee"** as used within the meaning of this Article, means an employee of the City as well as an employee of a contractor or subcontractor performing work for the City.

(C) **"Controlled Substance"** means a controlled substance as defined in the Illinois Controlled Substance Act, **720 ILCS Sec. 570/100 et seq.** (1992 State Bar Edition) or Cannabis as defined in the Cannabis Control Act, **720 ILCS Sec. 550/1 et seq.** (1992 State Bar Edition).

(D) **"Conviction"** means a finding of guilt, including a plea of nolo contendere, or imposition of sentence, or both, by any judicial body charged with determining violations of the Federal or State criminal drug statutes.

(E) **"Criminal Drug Statute"** means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance.

(F) **"State"** means all officers, boards, commissions, and agencies created by the Constitution, whether in the executive, legislative, or judicial branch; all officers, departments, boards, commissions, agencies, institutions, authorities, universities, bodies politic and corporate of the State; or administrative units or corporate outgrowths, of the State government which are created by or pursuant to statute.

11-2-2 REQUIREMENTS FOR CITY. The City shall provide a drug free workplace by:

(A) **Publishing a Statement.**

- (1) Notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including cannabis, is prohibited in the workplace.
- (2) Specifying the actions that will be taken against employees for violations of such prohibition.
- (3) Notifying employee that, as a condition of employment, the employee will:
 - (a) abide by the terms of the statement; and
 - (b) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than **five (5) days** after such conviction.

(B) Establishing a drug free awareness program to be administered by a person appointed by the Mayor to inform employees about:

- (1) the dangers of drug abuse in the workplace;
- (2) the City's policy of maintaining a drug free workplace;
- (3) any available drug counseling, rehabilitation, and employee assistance programs; and
- (4) the penalties that may be imposed upon employees for drug violations.

(C) A copy of the statement required by Subsection (A) above shall be given to each employee and posted in a prominent place in the workplace.

(D) If the City receives a grant from the State or Contract for the procurement of any property or services from the State, then the City shall notify the contracting or granting agency within **ten (10) days** after receiving notice under part (b) of paragraph (3) of Subsection (A) from an employee or otherwise receiving actual notice of such conviction.

(E) Within **thirty (30) days** from receiving notice from an employee of a conviction of a violation of a criminal drug statute occurring in the workplace, the Mayor shall take action against such employee as may be appropriate as determined by the Mayor and which may include but is not limited to reprimand; suspension for any length of time with or without pay; termination from employment; and/or a requirement to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(F) Assisting employees in selecting a course of action in the event drug counseling, treatment, and rehabilitation is required and indicating that a trained referral team is in place.

(G) Making a good faith effort to continue to maintain a drug free workplace through implementation of this Section.

(Ord. No. 1061; 06-20-94)

(See 30 ILCS Sec. 580/1 et seq.)

ARTICLE III – DRUG/ALCOHOL TESTING POLICY AND PROCEDURE

11-3-1 DRUG AND ALCOHOL FREE WORKPLACE POLICY. The City of Chester is committed to maintaining a drug free workplace pursuant to the federal and state Drug Free Workplace Acts, 41 U.S.C.A. § 701 *et seq.*, **30 ILCS 580/1 et seq.** It is the policy of the City that the public has the reasonable right to expect persons employed by the City to be free from the effects of alcohol and drugs. The City, as the employer, has the right to expect its employees to report for work fit and able for duty. This policy is intended to ensure that City employees are not impaired in their ability to perform assigned duties in a safe, healthy and productive manner and to protect any such employee and the public from the risks associated with the adverse effects of drugs and alcohol. Accordingly, the unlawful manufacture, distribution, possession, or use of a controlled substance, including cannabis and alcohol, is prohibited in the workplace or while acting on behalf of the City. Employees are required to sign a release and consent/authorization form, a copy of which is included with this policy, at the time the policy is distributed to the employee.

11-3-2 DEFINITIONS. For purposes of this policy, the following definitions apply:

(A) **“Abuse of alcohol” or “being under the influence of alcohol”** means the consumption of any beverage, mixture or preparation, including any medication containing alcohol, which results in an employee being intoxicated. Intoxicated or a positive test for alcohol shall mean a test result which shows an alcohol concentration of .02 or more for all persons covered by Federal DOT regulations and .08 or more for all persons not covered by Federal DOT regulations.

(B) **“Abuse of any drug”** means the use of any illegal drug, the use of any prescription drug which has not been legally prescribed and dispensed, or the misuse of any legally prescribed drug.

(C) **“Drug”** means any controlled substances listed in the Federal Controlled Substances Act, 21 U.S.C. § 801 *et seq.*, or the Illinois Controlled Substances Act, **720 ILCS 570/100 et seq.**, and cannabis as defined in the state Cannabis Controlled Act, **720 ILCS 550 et seq.**

11-3-3 PROHIBITED ACTIONS. Employees shall be prohibited from:

(A) Manufacture, distribution, dispensation, possession, use, sale, purchase, abuse of alcohol or being under the influence of alcohol at any time during the course of the employee’s workday or anywhere on or in any City-owned property, including City buildings and City-owned vehicles.

(B) Manufacture, distribution, dispensation, possession, use, sale, purchase, being under the influence of or abuse of any drug at any time and at any place.

(C) Failure to immediately disclose to his or her Department Head or immediate supervisor any drug or other medication-related work restrictions, or failure to disclose the taking of any drug or medication whose container has warnings that such drug or medication may affect any such employee's ability to perform his or her job, or to drive or operate machinery.

(D) Testing positive for any drug or for the abuse of alcohol or being under the influence of any drug and/or alcohol during working hours.

(E) Failure to comply with this policy.

(F) Refusal to submit to any drug or alcohol test under this policy, which shall also include, but not be limited to, any attempt to tamper with or substitute any sample to be used in connection with any such test.

11-3-4 APPLICABILITY. This Drug/Alcohol Testing Policy and Procedure is not intended to replace the Drug Free Workplace Programs but to define and clarify, who will be tested, when the employees will be tested and where employees will be tested. The following five employee categories define under which category each full time, part time/temporary and volunteer employee will be tested:

(A) Any employee who drives a City vehicle, tractor, tractor mower or similar motor powered equipment that moves under its own power will be tested under the Federal DOT testing standards.

(B) All employees who are responsible for the supply and maintenance of the City Natural Gas System will be tested under the current City Gas Utility Anti-Drug Program Policy of 2010.

(C) Testing for employees of the Police Department shall be controlled by the provisions set forth in their union contract.

(D) All other City employees who are not included within the three categories listed above in (A), (B) or (C) will be subject to testing to comply with the requirements necessary to establish a Drug Free Workplace within the City.

(E) Part time/temporary employees and volunteer employees of the City will remain exempt from pre-employment and random testing as defined in this testing program but they can be included for testing if reasonable suspicion should arise, or an accident should occur during the tenure of their part time/temporary or volunteer employment. After reasonable suspicion of abuse of drugs or alcohol has been established or an accident should occur, the decision to request a drug and alcohol test for the employee must be deemed necessary and reasonable by the Mayor and/or the supervisor of the employee.

11-3-5 TESTING PROCEDURE. In conducting any drug testing under this policy, the City shall:

(A) Use only a clinical laboratory or hospital facility that is licensed pursuant to the Illinois Clinical Laboratory and Blood Bank Act, **210 ILCS 25/101 et**

seq., that has been or is capable of being accredited by the National Institute of Drug Abuse ("NIDA").

(B) Insure that the laboratory or facility selected conforms to all NIDA standards.

(C) Follow all Federal DOT guidelines for the collection, testing and reporting procedures.

(D) In conducting any alcohol testing under this policy, the City shall use a facility that:

- (1) Ensures that all technicians are trained and equipment is calibrated.
- (2) Conducts breath test to detect the presence of alcohol or blood tests if circumstances require.

(E) The fees for drug/alcohol testing shall be paid as follows:

- (1) Pre-employment testing will be paid by the City.
- (2) Post accident tests shall be paid by the City.
- (3) Reasonable suspicion testing will be paid by the City.
- (4) Random testing will be paid by the City.
- (5) Retesting at the request of the employee after a positive drug or alcohol test shall be at the employee's sole expense.
- (6) Drug/Alcohol test for renewal of CDL Driver's License shall be paid by the City.

11-3-6 SCREENING AND TESTING.

(A) Pre-Employment Testing.

- (1) All employee applicants shall be advised of the City Drug/Alcohol testing requirements at the time of interview. After having successfully completed the interview process, the selected prospective full time employee shall then be required to successfully complete the City's drug screening test, as part of his/her background investigation.
- (2) All applicants for full time employment shall sign a release and consent/authorization form for Drug/Alcohol testing.
- (3) An applicant will not be employed or considered for employment if:
the test results confirm POSITIVE;
he/she refuses to complete the test;
he/she tampers with, or adulterates the specimen;
he/she fails to cooperate in the testing process (including executing all required documentation).

(B) **Testing Based on Reasonable Suspicion.** If there is a reasonable suspicion that any City employee, paid or volunteer, has violated any of the prohibited actions covered by this policy, such employee may be required to undergo drug and/or alcohol testing. Reasonable suspicion exists if the facts and circumstances

warrant a rational inference that an employee has violated any of the acts prohibited by this policy. Reasonable suspicion shall be based upon the following:

- (1) Observable phenomena, such as direct observation of use or the verifiable physical symptoms resulting from the abuse of drugs or being under the influence of alcohol which may include by way of example but is not limited to a pattern of abnormal conduct or erratic behavior, a dramatic decline in work performance, excessive sick leave usage, difficulty in walking, slurred speech, needle marks, glazed stare, and possession of alcohol, or unauthorized banned substance or drug paraphernalia at work.
- (2) Information provided by an identifiable, reliable and credible third party that an employee has committed any of the acts prohibited by this policy.

In the event reasonable suspicion exists, the City shall arrange for a drug and/or alcohol test. When testing is ordered, the employee may be temporarily reassigned or relieved from duty and placed on leave with pay pending the receipt of the test results by the City. The City shall also provide the employee with written notice setting forth the objective facts and reasonable inferences to be drawn from those facts which form the basis of the reasonable suspicion.

The employee will then be escorted to the testing facility or collection facility by a designated supervisor immediately.

After completing the test, the employee will be escorted to his/her residence or at the option of his/her supervisor to another location to await the test results, and the employee shall be off work with pay pending the results of the tests. Under no circumstances shall the employee be allowed to leave the work site or the test site driving his/her own vehicle or a City vehicle.

Employees who test positive for either drugs or alcohol will be subject to disciplinary action, up to and including termination.

(C) **Random Testing.** Random drug testing shall be conducted during working hours. Employees will be selected at random for a drug test by a random drawing/lottery. The testing times and dates are unannounced and are with unpredictable frequency throughout the year.

When testing is ordered, the employee will be directed to the testing facility or collection facility within a reasonable period of time.

After completing the test, the employee will return to work pending the results of the test.

Employees who test positive for drugs will be subject to disciplinary action, up to and including termination.

(D) **Post Accident Testing.** Post accident drug/alcohol testing is required immediately following any accident involving a City employee, paid or volunteer, who operates City equipment or operates a City vehicle where an injury to a person has occurred or where damage to equipment, or property has occurred and that

damage exceeds **One Hundred Dollars (\$100.00)**, based on actual cost or reliable estimates of damage.

When testing is ordered, the employee will be escorted to the testing facility or collection facility by a designated supervisor within a reasonable period of time following the accident.

Employees who test positive for either drugs or alcohol will be subject to disciplinary action, up to and including termination.

(E) **Testing Required for Position Required to Have a CDL.** In addition to the provisions of this policy, any employee who is appointed to a position required to have a commercial driver's license ("CDL") shall be subject to drug and/or alcohol screening following any work related accident. Mandatory drug screening shall also be required of all applicants chosen to be hired for positions requiring a CDL. Those who fail the pre-employment drug screening shall not be hired for those positions.

(F) **Testing Required for Positions Performing a Pipeline Function.** In addition to the provisions of this policy, any employee who is appointed to a position having any duty to perform on a pipeline any operating, maintenance or emergency response ("Gas/Pipeline Utility") function regulated by Parts 192, 193, or 195 of Title 49 of the Code of Federal Regulations, including any applicant chosen to be hired for employment to any position having any duty to perform such function, shall be subject to a pre-employment drug and alcohol screening as well as random testing as provided in the City Gas Utility Anti-Drug Program Policy of 2010, which is incorporated herein by reference.

11-3-7 CONFIDENTIALITY OF TEST RESULTS. Any employee subject to a drug and/or alcohol test under this policy will be provided a copy of all information and reports received by the City in connection with any drug and/or alcohol test and any results thereof under this policy. Any results of drug and alcohol test will be disclosed to any employee tested, the applicable supervisor, City Attorney and those permitted by law.

11-3-8 CONSEQUENCES OF POSITIVE TEST RESULT OR REFUSAL TO COOPERATE. Any employee who refuses to cooperate in testing or who fails a test or violates the Drug and Alcohol Policy shall be subject to disciplinary action, up to and including termination.

(Ord. No. 1407; 08-20-07)

ARTICLE IV – RESERVED

ARTICLE V

SEXUAL MISCONDUCT POLICY

11-5-1 PURPOSE OF POLICY. The City will not tolerate and will seek to eradicate any behavior by its employees which constitutes sexual misconduct toward another employee, volunteer, intern, or member of the public. "Sexual misconduct" means any actual, attempted or alleged sexual molestation, assault, abuse, sexual exploitation or sexual injury. "Sexual misconduct" does not include "sexual harassment".

11-5-2 REPORTING PROCEDURES AND DESIGNATED SEXUAL MISCONDUCT COORDINATOR. It is the express policy of the City to encourage victims of sexual misconduct, and their parents or guardians in the case of minors, to come forward with such claims. The City shall designate a Sexual Misconduct Coordinator who shall remain accountable for the implementation and monitoring of this policy. The identity of the Sexual Misconduct Coordinator shall remain on file with the City. In order to conduct an immediate investigation, any incident of sexual misconduct shall be reported as quickly as possible in confidence pursuant to this Article.

11-5-3 EMPLOYEES. Employees are required to report any known or suspected incidents of sexual misconduct. They shall report to their supervisor or the Sexual Misconduct Coordinator. If the person to whom an employee is directed to report is the offending person, the report should be made to the next higher level of administration or supervision.

11-5-4 INVESTIGATION AND CONFIDENTIALITY. All formal complaints shall be given a full, impartial and timely investigation. During such investigation, every effort shall be made to protect the privacy rights of all parties although confidentiality cannot be guaranteed.

11-5-5 DISCIPLINE. Any City employee who is determined, after an investigation, to have engaged in sexual misconduct in violation of this policy shall be subject to disciplinary action up to and including discharge.

11-5-6 FALSE ACCUSATIONS. False accusations regarding sexual misconduct shall not be tolerated, and any person knowingly making a false accusation shall likewise be subject to disciplinary action up to and including discharge.

11-5-7 RETALIATION AGAINST ACCUSER. The City shall discipline any individual who retaliates against any person who reports alleged sexual misconduct or who retaliates against any person who testifies, assists or participated in an investigation, a proceeding or a hearing relating to a sexual misconduct complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

11-5-8 CHILD ABUSE INCIDENT REPORTING AND FOLLOW-UP.

(A) Sexual child abuse as used in this Article is defined as: Child for the purposes of child abuse is defined as a person under **eighteen (18) years** of age, who prior to juvenile proceedings, has not been judicially emancipated or emancipated by marriage. Abuse means any one of the following acts which seriously endanger the physical, mental or emotional health of a child.

- (1) The infliction, attempted infliction, or as a result of inadequate supervision the allowance of the infliction of physical or mental injury upon a child by a parent or any other person.
- (2) The exploitation or overwork of a child by a parent or any other person.
- (3) The involvement of the child in any sexual act with a parent or any other person, or the aiding or toleration by the parent or caretaker of the child's sexual involvement with any other person or the child's involvement in pornographic displays, or any other involvement of a child in sexual activity constituting a crime under the laws of this State.

Sexual abuse of a minor is a crime.

(B) Any case of known or suspected child abuse of a minor shall be reported immediately in compliance with Illinois mandatory reporting guidelines and to the Sexual Misconduct Coordinator, the City Attorney's Office, and Police Department.

(C) In the event that the Sexual Misconduct Coordinator is first notified of an incident of known or suspected child abuse, the Sexual Misconduct Coordinator shall immediately notify the child's parent or legal guardian as the case may be and the appropriate legal authorities as required by the state or local law. The Sexual Misconduct Coordinator shall prepare a Suspected Child Abuse Standard Report and immediately follow-up to investigate the incident and to ascertain the condition of the child. The Sexual Misconduct Coordinator shall consult and communicate with the City Attorney as necessary.

(D) Any employee involved in a reported incident of sexual misconduct and/or child abuse shall be immediately relieved of responsibilities that involve interaction with minors or shall be suspended as determined by the employee's supervisor. Reinstatement of employees involved in a reported incident of child abuse shall occur only after all allegations of child abuse have been fully investigated and resolved by the City.

11-5-9 **MAINTENANCE OF RECORDS AND DOCUMENTS.** The Sexual Misconduct Coordinator shall maintain all records and documentation required by law or otherwise required by this and other such related policies of the City including all documents related to procedures for hiring-screening, employee/volunteer code of conduct, training, sign-in/sign-out, pick-up and release procedures, incident reporting follow-up and disciplinary action.

11-5-10 **EMPLOYEE ACKNOWLEDGEMENT OF POLICY.** This policy is to be reviewed and signed by all employees and volunteers.

CITY POLICY

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SUMMARY

The Research and Special Programs Administration (RSPA) Alcohol Misuse Prevention Program (AMPP) prohibits certain conduct by, and requires alcohol testing of, persons who perform specified covered functions. When alcohol tests are necessary, they must be conducted by qualified technicians on evidential breath testing devices. Persons who violate this regulation will be subject to consequences, including removal from covered functions.

IMPLEMENTATION DATE: March 4, 1996

A copy of this plan will be distributed to each covered employee prior to the start of alcohol testing under the RSPA - mandated AMPP and to each person subsequently hired for or transferred to a covered position.

Written notice of the availability of this information will be provided to representatives of employee organizations.

1. **CONTACT PERSON KNOWLEDGEABLE OF THE AMPP.**

AMPP Program Manager

Name Substance Abuse Management, Inc.

Address P.O. Box 93357, Milwaukee, WI 53203-0357

Phone Number (414) 274-1588

2. **PREEMPTION OF STATE AND LOCAL LAWS.**

Except as provided below, the requirements of 49 CFR parts 199 and 40 preempt any State or local law, rule regulation, or order to the extent that:

1. Compliance with both the State or local requirement and part 199 or 40 is not possible.
2. Compliance with the State or local requirement is an obstacle to the accomplishment and execution of any requirement.
3. The State or local requirement is a pipeline safety standard applicable to interstate pipeline facilities.

However, the requirements of Parts 199 and 40 will not be construed to preempt provisions of State criminal law that impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to transportation employees or employers or to the general public.

In addition, nothing in Parts 199 or 40 is to be construed to affect the authority of the City of Chester or the rights of employees with respect to the use or possession of alcohol, including authority and rights with respect to alcohol testing and rehabilitation, if otherwise applicable.

3. **CATEGORIES OF EMPLOYEES SUBJECT TO TESTING.**

Persons performing any of the following covered functions for the City of Chester are subject to the DOT/RSPA alcohol testing:

Employees Titles

Supervisor Titles

All Gas Employees who are covered by the Anti-Drug Program.

All Gas Supervisory persons who are covered by the Anti-Drug Program.

4. **EMPLOYEE TRAINING AND EDUCATION.**

A. Employee Education. All employees subject to this plan will be provided with educational materials explaining the requirements of the drug and alcohol regulations and our policies and procedures for meeting them. In addition, employees will be provided with information concerning the effects of alcohol misuse on an individual's health, work, and personal life; signs and symptoms of an alcohol problem (the employee's or a co-worker's); and available methods of intervening when an alcohol problem is suspected, including confrontation, referral to any employee assistance program and/or referral to management. This information will also include the following:

1. Display and distribution of informational material;
2. Display and distribution of the City of Chester's policy regarding the use of alcohol.

Copies of the above materials and this plan will be distributed to each covered employee prior to the start of alcohol testing required herein and to each person subsequently hired or transferred into a covered position. Each employee who receives a copy of these materials will be required to sign a statement certifying that he or she has received a copy of the same. The City of Chester will retain the original of the signed certificate and will provide a copy to the employee, if requested. The City of Chester will also provide written notice to representatives of employee organizations as to the availability of this information, if applicable.

Any questions about the requirements of this plan should be directed to the following individual:

Mr. E. F. Schuchert
(618) 826-5114

B. Supervisory Training. Any individual designated to determine whether reasonable suspicion exists to require a covered employee to submit to a drug or alcohol test under this plan will be required to receive at least **sixty (60) minutes** of training on alcohol misuse. This training will cover the specific, contemporaneous physical, behavioral, speech and performance indicators of probable alcohol misuse. Specific supervisory positions subject to this training requirement will including the following:

Gas Superintendent
Asst. Gas Superintendent
Gas Employee

The City of Chester may also request any supervisors in positions not specifically listed above to submit to this training at its discretion. This training will be accomplished through the use of video tape and companion books, **one (1) hour** on alcohol.

5. **PROHIBITED CONDUCT.**

A. Alcohol and Alcohol Use.

- * Alcohol is defined as the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol.
- * Alcohol use is defined as the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

B. Alcohol Concentration. Covered employees may not report for duty or remain on duty in a position requiring the performance of covered functions while having an alcohol concentration of 0.04 or greater.

C. Pre-Duty Use. Employees may not perform covered function duties within **four (4) hours** after consuming alcohol.

On-call employees who are not at work, but could be called to perform covered functions, are subject to the pre-duty alcohol prohibition (i.e., they would have to decline a call to work if acceptance would result in performing covered duties within the **four (4) hours**). Once notified to respond to an emergency, the employee must not consume any alcohol.

D. On-Duty Use. Covered employees may not consume alcohol while performing covered functions.

This prohibition also applies to covered employees who are at work and immediately available to perform covered functions.

No employee will be allowed to continue to perform a covered function if (he) has used alcohol while on duty.

E. Use After an Accident. Covered employees with knowledge of an accident involving a pipeline for which they performed a covered function at or near the time of the accident may not use alcohol for **eight (8) hours** after the accident unless they have been given a post-accident test, or the City of Chester has determined that their performance could not have contributed to the accident.

Incident is defined in Part 191.3 as (1) an event that involves a release of gas from a pipeline or of liquefied natural gas or gas from an LNG facility and (a) a death, or personal injury necessitating in-patient hospitalization; or (b) estimated property

Employees 11-1-29

damage, including cost of gas lost, of the operator or others, or both, of \$50,000.00

or more; (2) an event that results in an emergency shutdown of a LNG facility, or (3) an event that is significant, in the judgment of the operator, even though it did not meet the criteria listed above.

Accident is defined in Part 195.50 as a release of the hazardous liquid or carbon dioxide transported resulting in (1) explosion or fire not intentionally set by the operator, (2) loss of **fifty (50)** or more barrels of hazardous liquid or carbon dioxide; (3) escape to the atmosphere of more than **five (5) barrels** a day of highly volatile liquids; (4) death of any person; (5) bodily harm to any person resulting in **one (1)** or more of the following: (a) loss of consciousness, (b) necessity to carry the person from the scene, (c) necessity for medical treatment, (d) disability which prevents the discharge of normal duties or the pursuit of normal activities beyond the day of the accident; or (6) estimated property damage to the property of the operator or others, or both, exceeding \$5,000.00.

F. Refusal to Submit to Testing. Covered employees may not refuse to submit to a post-accident, reasonable suspicion, or follow-up alcohol test. The City of Chester will not permit an employee who refuses to submit to such a test to perform or continue to perform covered functions.

Refusal to submit to a return-to-duty test is not a violation of the RSPA AMPP rule, but a refusal will preclude any person from performing covered functions.

6. FUNCTIONS AND PERIOD OF THE WORKDAY COVERED BY THE AMPP.

A. All employees performing covered functions are subject to alcohol testing and must refrain from consuming any alcohol whenever they are performing, ready to perform, or immediately available to perform these functions. A covered function, or safety sensitive function means an operation, maintenance, or emergency-response function that is performed on a pipeline or LNG facility and the function is regulated by parts 192, 193, or 195 of 49 CFR.

B. For example, if an employee is on call to perform emergency maintenance coordinator functions at any time during his or her work day, even though these functions might not be performed during his or her regular work day, he or she would be subject to testing the entire work day because he or she is immediately available to perform those emergency maintenance functions.

C. Employees will only be tested for alcohol while they are at the work site. Therefore, a covered employee on call for duty while at home has not violated the regulations if he or she has an alcoholic beverage unless he or she reports for duty within **four (4) hours** of consuming such alcohol. He or she is not subject to alcohol testing until he or she reports for work. Therefore, if he or she is called to work and has consumed alcohol within the **four (4) hour** time frame, he or she would have to decline to report until **four (4) hours** has passed with no alcohol consumption. Once notified about reporting to duty, the employee may not consume any alcohol.

D. A secretary who is available to perform covered functions from 8 a.m. to 12 noon in order to cover for an absent employee would be subject to testing during those hours even if no covered functions were actually performed.

7. **CIRCUMSTANCES THAT REQUIRE TESTING.** Covered employees are subject to the following federally mandated alcohol tests:

A. Post-Accident.

1. As soon as practicable, but not later than **eight (8) hours** after an accident, each covered employee will be alcohol tested if that employee's performance either contributed to the accident or cannot be discounted as a contributing factor to the accident.
2. A covered employee who is subject to post-accident alcohol testing must remain readily available for testing or may be deemed by the City of Chester to have refused to submit to testing.
3. Attempts to conduct post-accident alcohol testing will cease eight (8) hours after the accident, even if no alcohol test has been conducted.
4. Operator's plan must prohibit employees from using alcohol for **eight (8) hours** following an accident unless (1) the employee has been alcohol tested or (2) the employee's performance can be discounted as a contributing factor to the accident.

B. Reasonable Suspicion.

1. A covered employee must submit to an alcohol test if the City of Chester has determined that reasonable suspicion exists that the employee has violated the alcohol misuse prohibitions.
2. This determination must be based on a trained supervisor's specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee.
3. Even if an alcohol test cannot be administered, no employee who appears to be under the influence of or impaired by alcohol, as shown by behavioral, speech, or performance indicators of alcohol misuse, should report for duty or remain on duty requiring the performance covered functions until a test can be administered and the result is below 0.02 or until the commencement of the employee's next duty period if at least **eight (8) hours** has elapsed.
4. Similarly, even if an alcohol test cannot be administered, the City of Chester will not permit an employee who is under the influence of or impaired by alcohol, as shown by behavioral, speech, or performance indicators of alcohol misuse, to report for duty or remain on duty requiring the performance of covered functions until a test can be administered and the result if below 0.02 or until the commencement of the employee's next duty period if at least **eight (8) hours** has elapsed.
5. A supervisor who identifies an employee for a reasonable suspicion test cannot conduct the alcohol test as the breath alcohol technician for that employee.

- C. Return to Duty.
 - 1. Before a covered employee returns to duty in a covered function after engaging in prohibited conduct, he or she must undergo a return-to-duty test.
 - 2. The employee is not allowed to perform a covered function until a result indicating an alcohol concentration of less than 0.02 is obtained.

- D. Follow-Up.
 - 1. Each covered employee, who has been identified by a Substance Abuse Professional (SAP) as needing assistance in resolving a problem with alcohol misuse and who has returned to duty performing a covered function, will be subject to follow-up testing.
 - 2. Follow-up tests will be unannounced and at least **six (6) tests** will be conducted in the first **twelve (12) months** after the employee is back on the job. Follow-up testing may continue for up to **sixty (60) months**.
 - 3. The schedule for follow-up alcohol testing is established by the SAP, and may include testing for drugs, as direct by the SAP.

- E. Retests.
 - 1. If the City of Chester desires to permit an employee to perform a covered function within **eight (8) hours** following administration of an RSPA-mandated alcohol test indicating an alcohol concentration of 0.02 or greater but less than 0.04, the City of Chester will first retest the employee.
 - 2. The employee may return to the covered function if the retest result indicates an alcohol concentration of less than 0.02.

8. **PROCEDURES FOR ALCOHOL TESTING; PROTECTING THE EMPLOYEE AND THE INTEGRITY OF THE BREATH TESTING PROCESS; SAFEGUARDING THE VALIDITY OF THE TEST RESULTS; AND ENSURING THAT THOSE RESULTS ARE ATTRIBUTED TO THE CORRECT EMPLOYEE.**

Note: The City of Chester will be using the Alco-Sensor IV, manufactured by Intoximeters, to conduct breath alcohol testing.

The City of Chester will use an alcohol testing site that affords visual and aural privacy to the individual being tested sufficient to prevent unauthorized persons from seeing or hearing test results. This site will have available all of the necessary equipment, personnel and materials for breath testing, and may include the use of a mobile collection facility. The alcohol testing site will be secure and no unauthorized persons will be permitted access to it at any time when testing is being conducted or when the EBT remains unsecured. The Company's alcohol testing site is located at:

Memorial Hospital
1900 State Street
Chester, IL 62233

Karen Cattor, Lab Supervisor
(618) 826-4581, Ext. 225

All tests will use the following procedures:

A. Preparation for Breath Alcohol Testing. The employee will be notified by their supervisor that they are being subject to alcohol testing (post-accident, reasonable suspicion, etc.). Upon entering the alcohol testing location, the Breath Alcohol Technician (BAT) will require the employee to provide positive identification (photo I.D. or identification by a City of Chester representative.) On request, the BAT will provide positive identification to the employee. The BAT will explain the testing procedure to the employee.

B. Screening Tests.

1. The BAT will complete Step 1 on the breath alcohol testing form, and the employee will then complete Step 2 on the form, signing the certification. Refusal by the employee to sign this certification will be regarded as a refusal to take the test.
2. An individually sealed mouthpiece will be opened in view of the employee and attached to the Evidential Breath Testing device (EBT) in accordance with the manufacturer's instructions.
3. The BAT will instruct the employee to blow forcefully into the mouthpiece for at least **six (6) seconds** or until the EBT indicates that an adequate amount of breath has been obtained.
4. If the EBT does not have a printer capable of generating a printed result, a sequential test number, the manufacturer's name for the device, the device's serial number, and the time and date of the test, the BAT will show the employee the result displayed on the EBT. The BAT will record the displayed result, test number, testing device, serial number of the testing device, date, time, and quantified result in Step 3 of the form, record the test number, date of the test, name of the BAT, location, and quantified test result in a log book. The employee will initial the log book entry.
5. If the EBT provides a printed result, but does not print the results directly onto the form, the BAT will show the employee the result displayed on the EBT. The BAT will then affix the test result printout to the breath alcohol test form in the designated space, using a method that will provide clear evidence of removal (e.g., tamper-evident tape).

6. If the EBT prints the test results directly onto the form, the BAT will show the employee the result displayed on the EBT.
7. In any case in which the result of the screening test is a breath alcohol concentration of less than 0.02, the BAT will date the form and sign the certification in Step 3 of the form. The employee will sign the certification and fill in the date in Step 4 of the form.
8. If the employee does not sign the certification in Step 4 of the form or does not initial the log book entry for a test, it will not be considered a refusal to be tested. In this event, the BAT will note the failure to sign or initial in the "Remarks" section of the form.
9. If a test result printed by the EBT does not match the displayed result, the BAT will note the disparity in the remarks section. Both the employee and the BAT will initial or sign the notation. The test is then invalid and the City of Chester and the employee will be so advised.
10. No further testing is authorized. The BAT will transmit the result of less than 0.02 to the City of Chester in a confidential manner, and the City of Chester will receive and store the information so as to ensure that confidentiality is maintained as required.

C. Confirmation Tests.

1. If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test will be performed. If the confirmation test will be conducted by a different BAT, the BAT who conducts the screening test will complete and sign the form and log book entry. The BAT will provide the employee with Copy 2 of the form.
2. The BAT will conduct an "air blank" to ensure that the device is working correctly. The air blank result must be 0.00. If the reading is greater than 0.00, the BAT will conduct one more air blank. If the reading is greater than 0.02, testing will not proceed using that instrument. However, testing may proceed on another instrument.
3. The BAT will instruct the employee not to eat, drink, put any object or substance in his or her mouth, and, to the extent possible, not belch during a waiting period before the confirmation test. This time period begins with the completion of the screening test, and will not be less than **fifteen (15) minutes**. The BAT will explain to the employee the reason for this requirement (i.e., to prevent any accumulation of mouth alcohol leading to an artificially high reading) and the fact that it is for the employee's benefit. The BAT will also explain that the test will be conducted at the end of the waiting period, event if the employee

has disregarded the instruction. If the BAT becomes aware that the employee has not complied with this instruction, the BAT will so note in the "Remarks" section of the form.

4. If a BAT other than the one who conducted the screening test is conducting the confirmation test, the new BAT will initiate a new Breath Alcohol Testing form. The BAT will complete Step 1 on the form. The employee will then complete Step 2 on the form, signing the certification. Refusal by the employee to sign this certification will be regarded as a refusal to take the test. The BAT will note in the "Remarks" section of the form that a different BAT conducted the screening test.
5. A breath alcohol test is invalid under the following circumstances:
 - a. The EBT does not pass its next external calibration check (invalidates all test results of 0.02 or greater on tests conducted since the last valid external calibration test; does not invalidate negative tests).
 - b. The breath alcohol technician does not observe the minimum **fifteen (15) minute** waiting period prior to the confirmation test.
 - c. The breath alcohol technician does not perform an air blank of the EBT before a confirmation test, or such an air blank does not result in a reading of 0.00.
 - d. The breath alcohol technician does not sign the form.
 - e. The breath alcohol technician fails to note in the remarks section of the form that the employee has failed or refused to sign the form after the test has been conducted.
 - f. An EBT fails to print a confirmation test result.
 - g. The sequential test number or alcohol concentration displayed on the EBT is not the same as the sequential test number or alcohol concentration on the printed result.

The BAT will transmit all results in a confidential manner to the individuals designated below, who will be responsible for any communications with the BAT concerning alcohol testing and test results and for confidentially receiving and handling alcohol testing results on behalf of the City of Chester:

Mr. E. F. Schuchert
or
Mayor Frank Derickson
(618) 826-5114

9. **RECORD KEEPING PROCEDURES.**

A. The City of Chester will maintain records relative to this plan as outlined below. The alcohol misuse prevent manager will maintain the records in a secure location with controlled access - in a locked file in the Chester City Hall.

The following records will be maintained for a minimum of **five (5) years**:

1. Records of employee alcohol test results with results indicating an alcohol concentration of 0.02 or greater.
2. Documentation of refusals to take required alcohol tests.
3. Calibration documentation.
4. Employee evaluation and referrals.

The following records will be maintained for a minimum of **three (3) years**:

1. Records that demonstrate the collection process conforms to 49 CFR part 40.
2. Records confirming that supervisors and employees have been trained as required under this plan.

The following records will be maintained for a minimum of **two (2) years**:

1. Records related to the alcohol and controlled substances collection process (except calibration of evidential breath testing devices) and training.
2. Records of the inspection and maintenance of each EBT used in employee testing.
3. Documentation of the employer's compliance with the QAP for each EBT it uses for alcohol testing under this plan.
4. Records of the training and proficiency testing of each BAT used in employee testing.
5. The log books used in conjunction with alcohol testing (if applicable).

The following records will be maintained for a minimum of **one (1) year**:

1. Alcohol test results with a concentration of less than 0.02.
2. Records of negative employee drug test results.

The City of Chester will also designate a specific individual or position responsible for ensuring compliance with the above record keeping requirements. The individual/position is listed below:

Mr. E. F. Schuchert
or
Vicki Search, Mayor's Secretary
(618) 826-5114

B. Alcohol Record Keeping Obligations. The following specific records will be maintained by the City of Chester:

Records related to the collection process, including:

1. Collection logbooks, if used;
2. Calibration documentation for evidential breath testing devices;
3. Documentation of breath alcohol technician training;
4. Documentation generated in connection with decisions to administer reasonable suspicion alcohol tests;

5. Documents generated in connection with decisions on post-accident alcohol tests; and

6. Documents verifying existence of medical explanation of the inability of an employee to provide adequate breath or to provide a urine specimen for testing.

Records related to an employee's alcohol test results, including:

1. The employer's copy of the Breath Alcohol Test Form, including the results of the test;
2. Documents related to the refusal of any covered employee to submit to an alcohol test required by this plan; and
3. Documents presented by a covered employee to dispute the result of an alcohol test administered under this plan.

Records to other violations of 49 CFR Section 199 Sub-part B.

Records related to evaluations by substance abuse professionals, including:

1. Records pertaining to a determination by a substance abuse professional concerning a covered employee's need for assistance; and
2. Records concerning a covered employee's compliance with recommendations of the substance abuse professional.

Records related to the City of Chester's MIS annual alcohol testing program, including:

1. Materials on alcohol misuse awareness, including a copy of our alcohol testing plan;
2. Documentation of compliance with the RSPA requirements governing the confidentiality and access to facilities and records kept under this plan.
3. Documentation of reasonable suspicion supervisory alcohol training; and
4. Certification that any alcohol training conducted under this plan complies with the requirements for such training.

These records will be promptly released to the employee, or a person identified by the employee (including subsequent employers), upon written request of the employee. This release of information will not be contingent upon payment for records other than those specifically requested.

1. These records will be released to the Secretary of Transportation upon request of DOT or RSPA.
2. In a post-accident situation, these records will be released to the National Transportation Safety Board when requested as part of an accident investigation.
3. These records will be released to the employee or a decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual and arising out of a determination that the employee engaged in prohibited conduct.

10. **CONSEQUENCES FOR VIOLATION THE RULES OF THE AMPP.**

A. Removal From Covered Functions. Covered* employees are prohibited from performing covered functions if they have engaged in prohibited conduct under

the RSPA rule or another DOT agency's alcohol misuse rule (including refusal to submit to post-accident, reasonable suspicion, or follow-up testing).

*Covered Employee: Any person who performs on a pipeline or LNG facility an operating, maintenance, or emergency response function regulated by Parts 192, 193, or 195 of 49 CFR. Such person may be employed directly by the City of Chester, or by a contractor engaged by the company. Other job functions not covered by Parts 192, 193, and 195 are not subject to the regulations.

B. Further Discipline. Any employee refusing to take or failing an alcohol test may receive disciplinary action up to and including termination of employment.

C. Required Evaluations and Testing.

1. No covered employee who has violated the rules on alcohol misuse or refused to submit to testing can perform any covered function unless and until that employee has:
 - a. Been evaluated by an SAP to determine whether the employee is in need of assistance in resolving problems related to alcohol use.
 - b. Completed any treatment recommended by the SAP;
 - c. Been evaluated by an SAP to ensure that the employee has properly followed the treatment program, and;
 - d. Undergone required return-to-duty testing.
2. An SAP is a licensed physician (medical doctor or doctor of osteopathy) or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of disorders related to drug use and abuse.

11. REFERRAL, EVALUATION, AND TESTING.

A. Treatment Resources. Any employee who engaged in conduct in violation of any of the prohibitions of this plan will be provided with information about the resources available for evaluating and resolving problems associated with the misuse of alcohol, including the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs.

B. Substance Abuse Evaluation. Any employee who engages in any conduct prohibited by this plan will be required to undergo an evaluation by an appropriate substance abuse professional, who will determine what, if any, assistance the employee may need in resolving problems associated with alcohol misuse. This requirement will apply regardless of whether such conduct is discovered as a result of positive alcohol test, independent employer knowledge or a voluntary admission by the employee.

The employee will be allowed to select any substance abuse professional named in the City of Chester's approved list of Referral, Evaluation, and Treatment Resources. If an employee desires to use a substance abuse professional not on this list, he/she will be required to obtain advance approval from the City of Chester.

12. **TREATMENT.** Any employee recommended for further assistance by a substance abuse professional may be afforded the opportunity to take a medical leave of absence by the City of Chester in order to undergo any recommended treatment. Any such treatment will be at the employee's expense, unless coverage for the same is provided by any otherwise applicable health insurance plan.

13. **CONSEQUENCES FOR HAVING AN ALCOHOL CONCENTRATION OF 0.02 OR GREATER BUT LESS THAN 0.04.** If a covered employee is found to have an alcohol concentration of 0.02 or greater but less than 0.04, that employee will be immediately removed from performing covered functions, until the employee is retested with a result below 0.02, or until the start of the employee's next regularly scheduled duty period, if it occurs at least **eight (8) hours** following administration of the test.

14. **INTERVENING WHEN ALCOHOL PROBLEM IS SUSPECTED, INCLUDING CONFRONTATION, REFERRAL PROGRAM, AND/OR REFERRAL TO MANAGEMENT.**

A. Why You Should Get Involved.

1. Although the City of Chester has no history of substance abuse problems, we recognize that alcoholism and alcohol misuse are problems throughout America.
2. There are **three (3)** good reasons why you should be concerned if any of your coworkers is using drugs or alcohol on the job:
 - a. Your health and safety may be at risk.
 - b. Alcohol misuse costs you money.
 - c. Alcohol creates a negative work environment.
3. According to the National Institute on Alcohol Abuse and Alcoholism, drug and alcohol use on the job cost society an estimated \$102 billion a year. Since most of this cost is passed on to you in the form of higher health insurance rates or in consumer prices, drug and alcohol use on the job costs you and your fellow workers a significant amount of money.
4. Absenteeism among problem drinkers or alcoholics is 3.8 to 8.3 times greater than normal. If your fellow workers don't come to work, you may have to do their jobs in addition to your own.
5. Workers who misuse alcohol don't function at their full potential. Not only is absenteeism a problem, when they are at work these employees may have reduced capabilities and productivity. Since our product is the safe transportation of the hazardous liquid (or natural gas), alcohol misuse is an especially serious issue.

6. No matter what your position is in the organization, there is something you can do to ensure that drug and alcohol use on the job never becomes a problem at the company. Acceptance of any misuse puts you, this company, and the public at risk.

15. EFFECTS OF ALCOHOL MISUSE ON AN INDIVIDUAL'S HEALTH, WORK, AND PERSONAL LIFE.

A. Alcohol is a central nervous system depressant. Taken in large quantities it causes not only the euphoria associated with "being drunk" but also adversely affects your judgment, your ability to think, and your motor functions. Drink enough alcohol fast enough and it can kill you.

B. Long term overuse of alcohol can cause liver damage, heart problems, sexual dysfunction, and other serious medical problems.

C. In some cases, alcohol use can lead to physical and psychological dependence on alcohol. Alcoholism is a serious chronic disease. Left untreated it will inevitably get worse.

D. Workers who use alcohol (and other drugs) affect everyone. Studies show that compared to alcohol- and drug-free workers, substance abusers are far less productive, miss more workdays, are more likely to injure themselves or someone else, and file more workers' compensation claims.

E. The measurable dollar costs of workplace substance abuse from absenteeism, overtime pay, tardiness, sick leave, insurance claims, and workers' compensation can be substantial. However, the hidden costs resulting from diverted supervisory and managerial time, friction among workers, damage to equipment, and damage to the company's public image mean that workplace substance abuse can further cut profits and competitiveness.

F. Alcohol can also destroy relationships, lead to serious problems with the law (e.g., drunk driving), and even cause harm to the people you love.

G. If drinking affects your work life, it could lead to job loss and all of the financial problems that would follow.

16. SIGNS AND SYMPTOMS OF ALCOHOL MISUSE. Any **one (1)** or more of the following signs may indicate a drinking problem:

- * Family or social problems caused by drinking.
- * Job or financial difficulties related to drinking.
- * Loss of a consistent ability to control drinking.
- * "Blackouts" or the inability to remember what happened while drinking.
- * Distressing physical and/or psychological reactions if you try to stop drinking.
- * A need to drink increasing amounts of alcohol to get the desired effect.
- * Marked changes in behavior or personality when drinking.
- * Getting drunk frequently.
- * Injuring yourself -- or someone else -- while intoxicated.
- * Breaking the law while intoxicated.

- * Starting the day with a drink.

17. **AVAILABLE METHODS OF EVALUATING AND RESOLVING PROBLEMS ASSOCIATED WITH THE MISUSE OF ALCOHOL.**

- A. Outpatient programs exist in a variety of settings:
 - 1. Community mental health centers.
 - 2. Family service agencies.
 - 3. Private physicians' and therapists' offices.
 - 4. Occupational settings.
 - 5. Specialized alcoholism treatment facilities.
- B. Inpatient services, designed for those with more serious alcohol problems, can be found in hospitals, residential care facilities, community halfway houses, and some alcoholism clinics.
- C. Your local phone director will list helpful referral organizations such as:
 - 1. Local council on alcoholism.
 - 2. Alcoholics Anonymous.
 - 3. Community alcoholism or mental health clinic.
 - 4. Social services or human resources department.
 - 5. County medical society.
- D. An SAP (Substance Abuse Professional) for the City of Chester can be referred by Substance Abuse Management, Inc. at:

(414) 274-1588 (Gary Gedig)
(414) 274-1507 (Robin)

The SAP will perform an initial evaluation, recommend any additional treatment if necessary, and refer employees needing assistance for treatment covered under our health insurance program.

18. **ONGOING DOCUMENT.** This is an ongoing Plan and Policy that may be changed or amended at any time.

(Ord. No. 1101; 03-04-96)