

Drug- and Alcohol-Free Workplace

POLICY OF THE CITY OF CORBIN, KENTUCKY

- (1) The city's mission is to provide public service that is delivered safely, efficiently, and effectively. This mission is accomplished by establishing a drug- and alcohol-free work environment to ensure that the workplace remains free from the effects of drugs and alcohol, which promotes the health and safety of employees and the general public. In keeping with this mission, the city declares that the unlawful manufacture, distribution, dispensing, possession, use of controlled substances, or misuse of alcohol is prohibited for all employees.
- (2) All employees are expected to read and sign the Drug- and Alcohol-Free Workplace Acknowledgment (HR Form 05) within 30 days of employment or within 30 days of any amendment to the policy or within 30 days of passage of this policy; whichever is applicable.
- (3) This policy is intended to comply with all applicable federal and state regulations governing workplace anti-drug and alcohol programs. The USDOT has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens. Under Kentucky law, the city has also chosen to follow the requirements of 803 KAR 25:280 to become a Certified Drug-Free Workplace.
- (4) The city and all commercial driver's license (CDL) employees are federally mandated to comply with the registration and reporting requirements of the Federal Motor Carrier Safety Administration (FMCSA) Clearinghouse under 49 CFR Part 382. This includes the city's obligation to perform pre-employment queries for all CDL applicants, perform annual queries for all CDL employees, and report certain violations or activity as required under 49 CFR Part 382. CDL employees will register with the FMCSA Clearinghouse website and will provide the necessary consent for the city to perform clearinghouse queries, including electronic authorization for all full queries. If an employee fails to provide consent as required under this section, then the employee is unable to perform safety-sensitive functions under federal law and the employee will be removed from duty. The refusal to provide consent will also be considered a violation under this policy and the employee may be subject to disciplinary action, including termination.
- (5) This policy is intended to apply whenever anyone is representing or conducting business for the city. Accordingly, this policy applies during all working hours, while on call, paid standby, and while performing work on behalf of the city while on or off city property. The policy applies to all city employees with special provisions designated to those employees identified as having responsibilities requiring a heightened safety-awareness level (HSAL). Those safety-sensitive positions identified as requiring an HSAL, include but may not be limited to:
 - a. Police officers.
 - b. Emergency dispatchers and dispatch supervisors.
 - c. Firefighters.
 - d. Heavy equipment operators.
 - e. Lifeguards.
 - f. Employees driving CDL-regulated vehicles.
 - g. Mechanics who work on these regulated vehicles.
 - h. Solid waste/sanitation drivers.
 - i. Employees who supervise children and child-related activities.
- (6) Definitions of terms used throughout this policy can be found in Appendix B.

- (7) Designated Employer Representative (DER) is an employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 382. Additionally, the DER and/or their designee ensures compliance with the DOT Clearinghouse requirements for employees with CDLs. For purposes of this policy, the city clerk is the DER.
- (8) Education and training required for this policy.
- a. Every employee will receive a copy of this policy and will have ready access to the corresponding federal and state regulations, including 803 KAR Parts 25 and 49 CFR Parts 40 and 382, as amended.
 - b. 49 CFR 382.603 states that each employer shall ensure that all persons designated to supervise drivers receive at least 60 minutes of training on alcohol misuse and receive at least an additional 60 minutes of training on controlled substances use. The training will be used by the supervisors to determine whether reasonable suspicion exists to require a driver to undergo testing under § 382.307. The training shall include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.
 - c. All other employees will undergo a minimum of 60 minutes of initial training on the signs and symptoms of drug use, including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use. Thereafter, all supervisors will undergo drug and alcohol training annually.
 - d. The employer will annually verify that the frequency and duration of each employee and supervisor training session meets the requirements of this section and that all employees have participated in the required alcohol and drug abuse education and awareness training program.
- (9) Prohibited substances addressed by this policy include the following:
- a. Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988. Any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), as further defined by 21 CFR Parts 1300.11 through 1300.15, and as defined by 803 KAR 25:280 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes but is not limited to marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration (USDEA) or the U.S. Food and Drug Administration (USFDA). Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs, such as oxycodone, oxymorphone, hydrocodone, and hydromorphone.
 - b. Federal drug testing regulations (49 CFR Part 40) require that all covered employees be tested for marijuana metabolites/THC, which includes any CBD products containing THC at or above the required threshold, cocaine, amphetamines, opiates, and phencyclidine. Illegal use of these five drugs is prohibited at all times, and thus, covered employees may be tested for these drugs anytime that they are on duty.
 - c. The Kentucky Certified Drug-Free Workplace testing regulations (803 KAR 25:280) require that all covered employees be tested for amphetamines, cannabidiols (THC which includes any CBD products containing THC at or above the required threshold), cocaine, opiates, phencyclidine (PCP), benzodiazepines, propoxyphene, methaqualone, methadone, barbiturates, and synthetic narcotics.
 - d. Pursuant to KRS 218B.040, the city exercises its right under the statute to not permit or accommodate the use of medicinal cannabis. Therefore, an authorized cardholder is prohibited from utilizing medicinal cannabis while employed by the city. The appropriate

use of legally prescribed drugs and nonprescription medications is not prohibited. However, any HSAL employee taking any legal substance which carries a warning label indicating that mental functioning, motor skills, or judgment may be adversely affected must report this information to a supervisor. Also, the employee is required to provide a written release from their doctor or pharmacist indicating that the employee can perform their safety-sensitive functions.

- e. The use of beverages containing alcohol, including any mouthwash, medication, food, candy, or any other substances such that alcohol is present in the body while performing safety-sensitive job functions is prohibited.

(10) Types of prohibited conduct include:

- a. All employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40 or any other state or federal laws, as amended.
- b. No employee will consume alcohol while at work or while on call. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The employee will subsequently be relieved of their on-call responsibilities and be subject to discipline.
- c. The city will not permit any employee to perform any work-related activity, especially safety-sensitive functions, if it has actual knowledge that the employee is using alcohol.
- d. No employee will report to work or remain on duty while having an alcohol concentration of 0.02 or greater, regardless of when the alcohol was consumed.
- e. No employee will consume alcohol for eight hours following involvement in an accident or until they submit to the post-accident drug/alcohol test, whichever occurs first.
- f. No employee will consume alcohol within four hours prior to the performance of any job functions.
- g. The city, under its own authority, also prohibits the consumption of alcohol at all times that the employee is on duty or anytime the employee is in uniform.
- h. Consistent with the Drug-Free Workplace Act of 1988, all employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the workplace while in uniform or while on city business.

- (11) Consistent with the Drug-Free Workplace Act of 1998, all employees are required to notify the city management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision will result in termination.

(12) Testing requirements for this policy include:

- a. Analytical urine drug testing and breath testing for alcohol will be conducted as required by 49 CFR Part 40, 803 KAR 25:280, and any other statutes, as amended. All employees will be subject to testing prior to employment, for reasonable suspicion, post-accident, and random, if applicable. All employees who have tested positive for drugs or alcohol on a random test, reasonable suspicion test, or post-accident test will be tested prior to returning to duty, after completion of the substance abuse professional's (SAPs) recommended treatment program, and subsequent release to duty. Follow-up testing after return to duty will be conducted as the law requires and/or at the discretion of the SAP.
- b. A drug or alcohol test can be performed any time an employee is on duty.
- c. All employees will be subject to blood draw for post-accident drug testing as a condition of ongoing employment with the city. Any employee who refuses to comply with a request for testing will be removed from duty and subject to discipline as defined in this policy. Any

employee who is suspected of providing false information in connection with a drug test or who is suspected of falsifying test results through tampering, contamination, adulteration, or substitution, will be required to undergo an observed collection. Verification of the above-listed actions will be considered a test refusal resulting in the employee's removal from duty and discipline as defined in this policy.

- (13) Testing for drugs and alcohol will be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as well as 803 KAR 25:280, and any other statutes, as amended. The procedures will be performed in a private and confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.
- (14) Pre-employment testing will be done within 48 hours after a conditional offer of employment is made and as follows:
 - a. For DOT applicants, applicants will not be hired or placed into a position unless the applicant takes a drug test with verified negative results and an alcohol test with a BAC below 0.02. All other applicants will not be hired into a position unless the applicant takes a drug test with verified negative results.
 - b. If an applicant fails a pre-employment drug or alcohol test, tampers with, or attempts to tamper with a urine specimen in any manner, the conditional offer of employment will be rescinded. Failure of a pre-employment drug and/or alcohol test will disqualify an applicant for employment for a period of at least one year. Evidence of the absence of drug dependency from an SAP that meets with 49 CFR Part 40, as amended, and a negative pre-employment drug test and an alcohol test with a BAC below 0.02 will be required prior to further consideration for employment. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.
 - c. When an employee being placed into a position submits a drug test with a verified positive result or a DOT applicant submits an alcohol test with a BAC above 0.02, the employee will be subject to disciplinary action.
 - d. If a pre-employment test is canceled, the city will require the applicant to take and pass another pre-employment drug test.
 - e. Applicants for DOT positions are required to report previous DOT-covered employer drug and alcohol test results. Failure to do so will result in the employment offer being rescinded.
- (15) Reasonable suspicion testing will be conducted as follows:
 - a. All employees and volunteers will be subject to a reasonable suspicion drug and/or alcohol test when there are reasons to believe that drug or alcohol use is impacting job performance and safety. Reasonable suspicion will mean that there is objective evidence based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech, or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one supervisor who is trained to detect the signs and symptoms of drug and alcohol use and who reasonably concludes that an employee may be adversely affected or impaired in their work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion drug test can be performed any time the employee or volunteer is on duty.
 - b. The DER or their designee will be notified of any indication of reasonable suspicion. Both the observing supervisor and the DER or their designee will review the policies and procedures herein, and if necessary, make arrangements with a testing facility of the city's choosing to conduct reasonable suspicion drug and/or alcohol testing as soon as possible. If the DER or their designee is not available, the observing supervisor will obtain the assistance of another city supervisor or other credible and reliable source. They will

complete the Reasonable Suspicion Observation Form and forward it to the DER. If after completing the form it is determined that there is, in fact, reasonable suspicion that the employee is under the influence of drugs and/or alcohol, the observing supervisor or their designee will notify the employee and accompany them to the testing site. Supervisors should avoid placing themselves and/or others in a situation which might endanger the physical safety of those present. The Reasonable Suspicion Observation Form will be attached to the forms reporting the test results.

- c. When a reasonable suspicion test is ordered, the employee must immediately submit to testing. The observing supervisor and/or designee will remain at the testing site with the employee until testing is completed. Any employee who is tested for reasonable suspicion will be placed on administrative leave with pay until the results of the test are known. After submitting to the drug/alcohol test, the employee may not return to work until the results of the test are known and only then if the results are negative. Only the DER may order a reasonable suspicion test.
- d. An employee who refuses an instruction to submit to a drug/alcohol test will not be permitted to finish their shift and will immediately be placed on administrative leave pending disciplinary action.

(16) Post-accident testing will be conducted as follows:

- a. Pursuant to KRS 342.610(4), post-accident drug testing should be done by blood draw and breath alcohol testing will be conducted when needed to evaluate the root cause of a workplace accident that harmed or could have harmed employees, where the employee's performance likely contributed to the accident, the employer has reasonable suspicion to believe that drugs or alcohol may have contributed, or as required under state or federal law. Testing is not limited to only the injured employees.
- b. Circumstances that constitute probable belief that an employee's performance likely contributed to the accident will be presumed to arise in any instance involving a work-related accident or injury involving any or all of the following:
 - 1. A human fatality.
 - 2. An employee will be tested for alcohol if the employee receives a citation within eight hours of the occurrence under Kentucky or local law for a moving traffic violation arising from the accident, if the accident involved:
 - (a) Bodily injury to any person who, as a result of the injury, receives immediate medical treatment away from the scene of the accident.
 - (b) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.
 - 3. An employee will be tested for controlled substances if the employee receives a citation within 32 hours of the occurrence under Kentucky or local law for a moving traffic violation arising from the accident if the accident involved:
 - (a) Bodily injury to any person who, as a result of the injury, receives immediate medical treatment away from the scene of the accident.
 - (b) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.
 - 4. A safety-sensitive employee or position who is involved in safety-sensitive activities, during the occurrence of the accident, and who cannot be discounted as a contributing factor to the accident.

5. Any city employee when there is a need to evaluate the root cause of a workplace accident that could have harmed employees and there is reasonable suspicion to believe that the use of drugs or alcohol by the employee could have contributed to the accident. (See the Reasonable Suspicion Observation Form.)
- c. Due to varying types of accident causes, not all accidents will require post-accident testing. Exceptions for requiring post-accident drug and alcohol testing will include but may not be limited to the following types of accidents or injuries.
 1. Injuries whose onset is cumulative or gradual such as carpal tunnel syndrome, progressive hearing loss, mental disorders, dermatitis, respiratory diseases, skin disorders, etc.
 2. Injuries where the employee can be completely discounted as the contributing factor, e.g., injuries caused by a third party or some other uncontrollable force or event, such as weather, insects, etc.
 3. Injuries where the employee can be completely discounted as the major contributing factor or those injuries occurring during physical fitness or a training event, in which the employee did everything within reason to avoid the injury or accident, e.g., was performing training as instructed.
- d. Post-accident investigations must take place within two hours following the accident.
- e. As soon as practicable following an accident, the investigating supervisor will notify the employee operating the vehicle or equipment and all other employees whose performance could have contributed to the accident, of the need for the blood test. All employees whose conduct could have contributed to the accident will be subject to testing, not only the employee who reported an injury. The DER along with the supervisor will make the determination using the best information available at the time of the decision. (See the Post-Accident Documentation Summary and Checklist.) *Under no circumstances will the employee be allowed to drive themselves to the testing facility.*
- f. The appropriate supervisor will ensure that an employee required to be tested under this section is tested as soon as practicable, but no longer than eight hours following the accident for alcohol and within 32 hours for drugs.
 1. If a blood alcohol test is not performed within two hours of the accident, the supervisor will document the reasons for the delay.
 2. If the alcohol test is not conducted within eight hours, attempts to conduct the alcohol test must cease and the reasons for the failure to test documented.
 3. If the drug test is not conducted within 32 hours, attempts to conduct the drug test must cease and the reasons for the failure to test documented.
- g. Any employee involved in an accident must refrain from alcohol use for eight hours following the accident, or until they undergo a post-accident blood alcohol test.
- h. An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of their location if they leave the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.
- i. Nothing in this section will be construed to require the delay of necessary medical attention for the injured following an accident, to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.
- j. In the rare event that the city is unable to perform a drug and alcohol test, e.g., employee is unconscious, employee is detained by law enforcement agency, the city may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of

the test. The local law enforcement officials must have independent authority for the test, and the employer must obtain the results in conformance with local law.

- k. The city reserves the right to test all employees whose conduct may have contributed to the accident.
 - l. An employee involved in an accident while on an out-of-town assignment will notify their supervisor as soon as possible, but no later than two hours after the accident occurred. The supervisor will notify the DER to discuss possible drug/alcohol testing requirements.
- (17) Random testing will be conducted as follows:
- a. All employees in HSAL, FRE, and DOT positions will be subjected to random, unannounced testing. The selection of employees will be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees.
 - b. The dates for administering unannounced testing of randomly selected employees will be spread reasonably throughout the calendar year.
 - c. Employees in HSAL positions, other than those classified as FRE, will have random alcohol testing done annually.
 - d. The number of FRE employees randomly selected for drug/alcohol testing during the calendar year will not be less than the percentage rates established by federal regulations for those safety-sensitive employees subject to random testing by federal regulations.
 - e. All employees in FRE positions will be selected from a pool that is separate from the random selection pool for other non-federally regulated HSAL positions.
 - f. Each covered employee will be in a pool from which the random selection is made. Each covered employee in the pool will have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection regardless of whether the employee has been previously tested. There is no discretion on the part of management in the selection and notification of the individuals who are to be tested.
 - g. Random tests can be conducted at any time during an employee's shift.
 - h. Employees are required to immediately proceed to the collection site upon notification of their random selection.
- (18) When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee who is not already a participant in a treatment program admits the abuse of alcohol or other substances to a supervisor in their chain of command, the employee will be referred to the SAP for an assessment. The city will place the employee on administrative leave. Testing in this circumstance would be performed under the direct authority of the DER. Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under federal authority. However, self-referral does not exempt the employee from testing under federal authority as specified in this policy.
- (19) Refusal to submit to a drug/alcohol test will be considered a positive test result and a direct act of insubordination and will result in termination.
- (20) Consequences of a positive alcohol or drug test include:
- a. As soon as practicable after receiving notice of a verified positive drug test result, a confirmed alcohol test result, or a test refusal, the DER will contact the employee's supervisor to have the employee removed from the workplace.
 - b. For employees with a CDL, positive test results and other violations will be reported to the DOT Clearinghouse in accordance with 49 CFR Part 40 and 382.

- c. For the first instance of a verified positive test from a sample submitted as the result of a random test, reasonable suspicion test, return-to-duty test, post-accident test, or follow-up drug/alcohol test (0.04 BAC or greater), disciplinary action against the employee will include:
 - 1. Mandatory referral to an SAP/employee assistance program (EAP) for assessment, formulation of a treatment plan, and execution of a return-to-work agreement. Failure to execute or remain compliant with the return-to-work agreement will result in termination of employment.
 - 2. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; in the judgment of the SAP/EAP the employee is cooperating with their recommended treatment program; and the employee has agreed to periodic unannounced follow-up testing.
 - 3. Refusal to submit to a periodic unannounced follow-up drug/alcohol test will be considered a direct act of insubordination and will result in termination.
 - 4. A periodic unannounced follow-up drug/alcohol test which results in a verified positive will result in termination from employment.
- d. The second instance of a verified positive drug or alcohol (0.04 BAC or greater) test result, including a sample submitted under the random test, reasonable suspicion test, return-to-duty test, post-accident test, or follow-up drug/alcohol test provisions herein will result in termination from employment.
- e. For DOT employees, a confirmed alcohol test result of 0.02 to 0.039 BAC will result in the removal of the employee from duty for eight hours or the remainder of the workday, whichever is longer. The employee will not be allowed to return to duty for their next shift until they submit to an alcohol test with a result of less than 0.02 BAC. If the employee has an alcohol test result of 0.02 to 0.039 two or more times within a six-month period, the employee will be removed from duty and referred to the SAP/EAP for assessment and treatment consistent with this policy.
- f. The cost of any treatment or rehabilitation services will be paid directly by the employee or their insurance provider. The employee will be permitted to take accrued sick leave or administrative leave to participate in the prescribed treatment program. If the employee has insufficient accrued leave, the employee will be placed on leave without pay until the SAP/EAP has determined that the employee has successfully completed the required treatment program and releases them to return to duty. Any leave taken, either paid or unpaid, will be considered leave taken under the Family and Medical Leave Act (FMLA).

(21) Return-to-duty testing will be done as follows:

- a. All employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (negative being below 0.02 BAC), or both and be evaluated and released by the SAP/EAP before returning to work.
- b. For an initial positive drug test, a return-to-duty drug test is required, and an alcohol test is allowed. For an initial positive alcohol test, a return-to-duty alcohol test is required, and a drug test is allowed.
- c. Following the initial assessment, the SAP/EAP will recommend a course of rehabilitation unique to the individual. The SAP/EAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement, is known to be drug and alcohol-free, and there are no undue concerns for public safety.

(22) Employees will be required to undergo frequent, unannounced drug and alcohol follow-up testing upon return to duty. For DOT employees, the follow-up testing will be performed for a period of one to five years after the successful completion of treatment, with a minimum of six tests to be

performed the first year. All employees will be required to undergo drug testing for a period of once per quarter for one year after the employee's successful completion of the EAP. Follow-up testing is separate and in addition to the random testing, post-accident testing, reasonable suspicion testing, and return-to-duty testing.

(23) Employee assistance program (EAP) information.

- a. Alcoholism and controlled substance addiction are recognized as diseases responsive to proper treatment. The city's health insurance plan through Anthem contains a level of care available for substance abuse treatment through an EAP provided for employees as part of their health care coverage. The EAP can be reached by calling **800.999.7222** and entering the company code: **Aspirant**.
- b. All employees of the city are strongly encouraged to voluntarily contact the EAP if they believe they or an immediate family member might have a problem with drug or alcohol abuse. An employee who feels that they have developed an addiction or dependence on alcohol or drugs may be entitled to other benefits in addition to the EAP herein described. The decision to seek such benefits or not is the sole responsibility of the employee. All information concerning the use of the medical insurance plan for this purpose will be treated as confidential medical information. Employees who seek treatment or counseling for substance abuse problems may be eligible for leave pursuant to the city's leave policies.
- c. If an employee has been identified by an SAP as needing assistance in resolving problems associated with alcohol or controlled substances, the employee will be subject to follow-up testing as prescribed elsewhere in this policy. The SAP will be either a licensed physician, certified psychologist, social worker, employee assistance professional, or addiction counselor.
- d. Employees who voluntarily report a substance abuse problem, prior to being required to take a controlled substance or alcohol test as defined in this policy, will not be subject to disciplinary action if they voluntarily and conscientiously seek substance abuse assistance and agree to a treatment plan. However, such an employee must understand that if the problem is not corrected and satisfactory job performance is not maintained, they will be subject to disciplinary action up to and including termination of employment. Failure to seek such assistance, or to abide by the terms of the treatment plan, will be grounds for termination. Upon voluntarily reporting a substance abuse problem, the employee will be required to sign a Return-to-Work Agreement that will further define conditions of continued employment.
- e. The city's EAP provides services to employees regardless of race, color, religion, national origin, disability, sex, age, or any other state or federally protected class.

(24) The city is dedicated to assuring fair and equitable application of this Drug- and Alcohol-Free Workplace Policy. Therefore, supervisors are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor who knowingly disregards the requirements of this policy or who is found to deliberately misuse the policy towards subordinates, will be subject to disciplinary action up to and including termination.

(25) Confidentiality of drug testing procedures and records are as follows:

- a. Drug/alcohol testing records will be maintained by the city clerk and except as provided below, or by law, the results of any drug/alcohol test will not be disclosed without express written consent of the tested employee.
- b. The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol, including any drug or alcohol testing records. Employees have the right to gain access to any pertinent records, such as equipment calibration records and records of laboratory certifications. Employees may not have access to SAP referrals and follow-up testing plans.

- c. Records of a verified positive drug/alcohol test result will be released to the department director and personnel manager on a need-to-know basis.
 - d. Records will be released to a subsequent employer only upon receipt of a written request from the employee.
 - e. Records of an employee's drug/alcohol tests will be released to the adjudicator in a grievance, lawsuit, or other proceedings initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the proceedings. The information will only be released with the binding stipulation from the decision maker to make it available only to parties in the proceedings.
 - f. Records will be released to the National Transportation Safety Board (NTSB) during an accident investigation.
 - g. Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
 - h. If requested, records will be released by a federal, state, or local safety agency with regulatory authority over the city or the employee.
 - i. If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of CFR Part 40, as amended, necessary legal steps to contest the issuance of the order will be taken.
- (26) Any questions regarding this policy or any other aspect of the Drug- and Alcohol-Free Workplace Policy should be directed to the DER.

Passed this 16th day of December, 2024.

Mayor

Yoni Brook
ATTEST: City Clerk

APPENDIX B – DRUG TESTING DEFINITIONS

- a. *Accident* means an occurrence associated with the operation of a vehicle or equipment, if as a result:
1. A person dies.
 2. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident.
 3. An employee receives a citation, within eight hours of the occurrence under state or local law, for a moving traffic violation arising from the accident, if the accident involved:
 - (a) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident.
 - (b) One or more motor vehicles incurring disabling damage, as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.
 4. The employer could reasonably believe that employee drug or alcohol use could have contributed to an incident.
- b. *Actual knowledge* is defined by 49 CFR 382.107. Actual knowledge means actual knowledge by an employer that a driver has used alcohol or controlled substances based on the employer's direct observation of the employee, information provided by the driver's previous employers, a traffic citation for driving a commercial motor vehicle (CMV) while under the influence of alcohol or controlled substances, or an employee's admission of alcohol or controlled substance use, except as provided in §382.121. Direct observation as used in this definition means observation of alcohol or controlled substances use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing under §382.307. As used in this section, "traffic citation" means a ticket, complaint, or other document charging driving a CMV while under the influence of alcohol or controlled substances.
- c. *Adulterated specimen* is a specimen that contains a substance that is not expected to be present in human urine or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.
- d. *Alcohol* means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food preparation, or medication.
- e. *Alcohol concentration* is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath-testing device or in blood alcohol content (BAC) when required for post-accident testing.
- f. *Canceled test* is a drug test that has been declared invalid by a medical review officer. A canceled test is neither positive nor negative.
- g. *Consortium* means an entity which may involve varied pools of employers and their employees, established to provide cost-effective services to employees to help the employers comply with the drug-free workplace program requirements.
- h. *Department of Transportation (DOT)* is the department of the federal government which includes the U.S. Coast Guard (USCG), Federal Transit Administration (FTA), Federal Railroad Administration (FRA), Federal Highway Administration (FHA), Federal Motor Carrier Safety Administration (FMCSA), Research and Special Programs, and the Office of the Secretary of Transportation.
- i. *Dilute specimen* is a specimen with creatinine and specific gravity values that are lower than expected for human urine.

- j. *Disabling damage* means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes vehicles that could have been operated but would have been further damaged if so operated. This does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, mirrors, or windshield wipers that makes them inoperative.
- k. *Employee* is defined in KRS 342.640 as every person in the service of the city under any contract of hire, express or implied, and every official or officer of those entities, whether elected or appointed, while performing their official duties; every person who is a member of a volunteer ambulance service, fire department, or police department; and every person who is a regularly enrolled volunteer member or trainee of an emergency management agency as established under KRS Chapters 39A to 39E.
- l. *Evidentiary Breath-Testing Device (EBT)* is a device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations. Approved devices are listed on the NHTSA-conforming products list.
- m. *Federally regulated employees (FRE)* are those designated in DOT regulations as safety-sensitive employees and include those regulated by the Federal Aviation Administration (FAA) (aviation), Federal Motor Carrier Safety Administration (FMCSA) (commercial motor carriers), Pipeline and Hazardous Materials Safety Administration (PHMSA) (gas pipeline), and Federal Transit Administration (FTA) (transit). These employees include anyone with a CDL or mechanics who work on CDL vehicles.
- n. *Heightened Safety-Awareness Level (HSAL) (safety-sensitive) positions* are those positions involving special, dangerous, and skilled activities, and those that would involve exceptional duty to community citizens in the area of public safety.
- o. *Medical Review Officer (MRO)* means a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders, has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with their medical history, and any other relevant biomedical information.
- p. *Negative dilute* is a drug test result which is negative for the five drug/drug metabolites but has a specific gravity value lower than expected for human urine.
- q. *Negative test result* for a drug test means a verified presence of the identified drug or its metabolite below the minimum levels specified in 49 CFR Part 40, as amended. An alcohol concentration of less than 0.02 BAC is a negative test result.
- r. *Non-negative test result* is a test result found to be adulterated, substituted, invalid, or positive for drug/drug metabolites.
- s. *Performing a safety-sensitive function* includes any period in which an employee is actually performing, ready to perform, or immediately available to perform such functions.
- t. *Positive test result* for a drug test means a verified presence of the identified drug or its metabolite at or above the minimum levels specified in 49 CFR Part 40, as amended. In addition, the claimed use of CBD products will not be considered a medical excuse for a positive marijuana test. A positive alcohol test result means a confirmed alcohol concentration of 0.04 BAC or greater.
- u. *Prohibited drug* means cannabinoids/THC, cocaine, opiates, amphetamines, or phencyclidine at levels above the minimum thresholds specified in 49 CFR Part 40, as amended. In addition, the city tests for benzodiazepines, propoxyphene, methaqualone, methadone, barbiturates, synthetic narcotics, illicit substances, and volatile substances as defined by KRS 217.900, KRS 218A.010, and 902 KAR 55, as amended.

- v. *Rehabilitation program* means a service provider that provides confidential, timely, and expert identification, assessment, treatment, and resolution of employee drug or alcohol abuse and may include inpatient or outpatient programs, as well as the EAP.
- w. *Safety-sensitive functions* include:
1. The operation of a vehicle by an employee when the operation of the vehicle requires the driver to hold a CDL.
 2. Maintaining a CDL vehicle or equipment used in repair of CDL vehicles.
 3. Operating a transportation vehicle as defined by the Federal Transit Administration (FTA).
 4. Maintaining transportation vehicles as defined by the FTA.
 5. The essential functions of actions performed by employees are considered to establish HSAL positions.
- x. *Substance* means drugs or alcohol.
- y. *Substance Abuse Professional (SAP)* means a licensed physician (medical doctor or doctor of osteopathy), 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 or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse) with knowledge of and clinical experience in the diagnosis and treatment of drug- and alcohol-related disorders.
- z. *Substituted specimen* means a specimen with creatinine and specific gravity value that is so diminished that it is not consistent with normal human urine.
- aa. *Test refusal* is when an employee does any of the following:
1. Fails to appear for any drug or alcohol test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with any applicable DOT agency regulations, after being directed to do so by the employer.
 2. Fails to remain at the testing site prior to the commencement of the test and until the testing process is complete provided that an employee who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test.
 3. Fails to provide a urine, saliva/breath, or blood specimen for any drug or alcohol test required by regulations or this policy.
 4. Fails to permit the observation or monitoring of the employee's provision of a specimen in the case of a directly observed or monitored collection in a drug test.
 5. Fails to provide a sufficient amount of urine or breath when directed and it has been determined through a required medical evaluation that there was no adequate medical explanation for the failure.
 6. Fails or declines to take an additional drug or alcohol test the employer or collector has directed the employee to take.
 7. Fails to undergo a medical examination or evaluation as directed by the MRO as part of the verification process or as directed by the DER. In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment. If there was no contingent offer of employment, the MRO will cancel the test.
 8. Fails to cooperate with any part of the testing process, e.g., refuses to empty pockets when directed by the collector, behaves in a confrontational way that disrupts the collection process, and/or fails to wash hands after being directed to do so by the collector.

9. Is reported by the MRO as having a verified adulterated or substituted specimen.
- bb. *Verified negative test* means a drug test result reviewed by an MRO and determined to have no evidence of prohibited drug use above the minimum cutoff levels established by the Department of Health and Human Services (HHS).
- cc. *Verified positive test* means a drug test result reviewed by an MRO and determined to have evidence of prohibited drug use above the minimum cutoff levels specified in 49 CFR Part 40, as revised.
- dd. *Validity testing* is the evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

HR Form 05

Drug- and Alcohol-Free Workplace Acknowledgment

- (1) The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited within the workplace of the City of Corbin. (See Section 3 of the Drug- and Alcohol-Free Workplace Policy contained within the handbook.)
- (2) An employee found to be abusing drugs, but not convicted of any drug statute violation, will be subject to appropriate disciplinary action up to and including termination or be required to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes. The employer is not required to pay for this rehabilitation.
- (3) Each employee is required as a condition of employment to abide by the terms of paragraph (1) of this acknowledgment and notify the employer of any criminal drug conviction for a violation occurring in the workplace no later than five days after such conviction.
- (4) The city will, within 30 days after receiving notice from an employee of a conviction pursuant to paragraph (3), take appropriate disciplinary action against such employee up to and including termination.
- (5) The city also assures to make a good faith effort to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), and (4).

CERTIFICATION AND ACKNOWLEDGMENT

I, _____ do hereby certify that I have read and understand the City of Corbin's Drug- and Alcohol-Free Workplace Policy and have received a copy of the aforementioned policy.

Employee Signature _____

Parent/Guardian Signature
(if employee is under 18 years of age) _____

Date _____

REASONABLE SUSPICION OBSERVATION FORM & CHECKLIST

CONFIDENTIAL

Employee

Date/Time of Observation

Department Supervisor, Name and Telephone

This checklist is to be completed when an incident has occurred which provides reasonable suspicion that an employee is under the influence of a prohibited drug substance or alcohol. You should note all pertinent behavior and physical signs or symptoms, which lead you to reasonably believe that the employee has recently used or is under the influence of a prohibited substance. Mark each applicable item on this form and add any additional facts or circumstances, which you have noted.

A. Nature of Incident/Cause for Suspicion

-
1. Observed/reported possession or use of a prohibited substance (including passenger complaint)
 2. Apparent drug or alcohol intoxication
 3. Observed abnormal or erratic behavior
 4. Arrest for drug-related offense
 5. Other (e.g., flagrant violation of safety or serious misconduct, accident or "near miss," fighting or argumentative/abuse language, refusal of Department supervisor instruction, unauthorized absence on the job) (please specify).
-
-

- ___ 4. Dilated or constricted pupils or unusual eye movement
- ___ 5. Bloodshot or watery eyes
- ___ 6. Extreme aggressive or agitation
- ___ 7. Excessive sweating or clamminess of skin
- ___ 8. Flushed or very pale face
- ___ 9. Highly excited or nervous
- ___ 10. Nausea or vomiting
- ___ 11. Odor of alcohol
- ___ 12. Odor of Marijuana
- ___ 13. Disheveled appearance or out of uniform
- ___ 14. Dry mouth (frequent swallowing/lip wetting)
- ___ 15. Dizziness or fainting
- ___ 16. Shaking hands or body tremors/twitching
- ___ 17. Breathing irregularity or difficulty breathing
- ___ 18. Runny nose or sores around nostrils
- ___ 19. Inappropriate wearing of sunglasses
- ___ 20. Puncture marks or "tracks"
- ___ 21. Other (please specify) _____

D. Written Summary

Please summarize the fact and circumstances of the incident, employee response, supervisor actions taken, and any other pertinent information not previously noted. Please note the date, times and location or reasonable suspicion testing or note if the employee refused the test. Attach additional sheets as needed.

**POST-ACCIDENT
DOCUMENTATION SUMMARY AND CHECKLIST**

To be completed by the Supervisor/DER assigned to investigate the accident.

Supervisor must complete drug testing checklist immediately to determine whether testing is necessary. Return to the City Clerk within 24 hours of the accident.

1) Accident Report #:

2) Location of Accident:

3) Description/Details of the Accident (including all person(s) involved):

4) Date of Accident: _____ Time: _____

5) Accident Report Date: _____ Time: _____

6) Name of Employee:

7) Identification Number:

8) Employee's Position:

9) Employee's Department:

POST-ACCIDENT DRUG AND ALCOHOL TESTING CHECKLIST

A blood alcohol test should be conducted within eight hours of the accident and blood drug testing is to be conducted within 32 hours of the accident generally as follows:

(a) Was there a fatality?

___ Yes ___ No

If no, proceed to section (b). If yes, check all that apply:

- Is the employee regulated by **Department of Transportation (DOT)** under 49 CFR Part 382 (e.g. employees with commercial driver's license (CDL), mechanics who work on CDL regulated vehicles, etc.)?
 - If yes, the employee is required to undergo both a post-accident drug and post-accident alcohol test.
 - Additionally, if yes, any DOT employee(s), who performed safety sensitive functions with respect to the vehicle, are required to undergo both a post-accident drug and post-accident alcohol test.
 - For **all other employees**, the employee(s) involved in the accident, who cannot be discounted as a contributing factor* to the accident, is required to undergo both a post-accident drug and post-accident alcohol test.
 - Any additional information: _____
-

(b) Was anyone transported from the scene of the accident for medical attention?

___ Yes ___ No

If no, proceed to section (c). If yes, check all that apply:

- Is the employee regulated by **Department of Transportation (DOT)** under 49 CFR Part 382 (e.g. employees with commercial driver's license (CDL), mechanics who work on CDL regulated vehicles, etc.)?
 - If yes, **and** a moving vehicle citation was issued to the driver:
 - within 8 hours of the occurrence, a DOT employee is required to undergo both a post-accident drug and post-accident alcohol test.
 - after 8 hours but within 32 hours of the occurrence, a DOT employee is required to undergo a post-accident drug test.
- Certified Drug Free Workplace cities**, following an accident on the premises of the employer or in the course of employment for the employer which requires off-site medical attention be given to a person, alcohol, and drug testing. (803 KAR 25:280(3))

- For **all other employees**, the employee(s) involved in the accident, who cannot be discounted as a contributing factor* to the accident is required to undergo both a post-accident drug and post-accident alcohol test.

Any additional information: _____

(c) Was there disabling damage to any vehicle involved, that required the disabled vehicle to be transported away from the scene by a tow truck or other motor vehicle?

___ Yes ___ No

If no, proceed to section (d). If yes, check all that apply:

- Is the employee regulated by **Department of Transportation (DOT)** under 49 CFR Part 382 (e.g. employees with commercial driver's license (CDL), mechanics who work on CDL regulated vehicles, etc.)?

- If yes, **and** a moving vehicle citation was issued to the driver:

- within 8 hours of the occurrence, a DOT employee is required to undergo both a post-accident drug and post-accident alcohol test.

- after 8 hours but within 32 hours of the occurrence, a DOT employee is required to undergo a post-accident drug test.

- For **all other employees**, the employee(s) involved in the accident, who cannot be discounted as a contributing factor* to the accident is required to undergo both a post-accident drug and post-accident alcohol test.

Any additional information: _____

(d) Did the accident involve a safety sensitive employee, as defined in the City Drug and Alcohol Policy (e.g. police, fire, heavy equipment operator, lifeguard, etc.) that is not subject to federal regulations (DOT) who was involved in a safety sensitive activity (e.g. essential functions of the job such as the operation of heavy equipment or carrying a firearm), at the time of the accident?

___ Yes ___ No

If no, proceed to section (e). If yes:

- For all **safety sensitive employees involved in safety sensitive activities**, the safety sensitive employee(s) involved in the accident, who cannot be discounted as a contributing factor* to the accident, is required to undergo both a post-accident drug and post-accident alcohol test.

Any additional information: _____

(e) Was the accident one that is not described in (a) through (d)?

___ Yes ___ No

If yes AND:

- There is reasonable suspicion to believe that the use of drugs or alcohol, by **any employee(s) involved in the accident**, could have contributed to the accident (See Reasonable Suspicion Observation Form and attach to this checklist).

AND

- The employee cannot be discounted as a contributing factor* to the accident

Then, if both items above apply, the employee(s) is required to undergo both a post-accident drug and post-accident alcohol test.

- Any additional information: _____

* Due to varying types of accident causes, not all accidents will require post-accident testing. Exceptions for requiring post-accident drug and alcohol testing will include, but may not be limited to the following types of accidents or injuries:

- Injuries whose onset is cumulative or gradual such as carpal tunnel syndrome, progressive hearing loss, mental disorders, dermatitis, respiratory diseases, skin disorders, etc.
- Injuries where the employee can be completely discounted as the contributing factor (i.e. injuries caused by a third party or some other uncontrollable force or event, such as weather, insects, etc.).
- Injuries where the employee can be completely discounted as the major contributing factor or those injuries occurring during physical fitness or a training event, in which the employee did everything within reason to avoid the injury accident, (i.e. was performing training as instructed).

***NOTE:** If an alcohol test required by this section is not administered within two hours following the accident, the employer/supervisor shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the accident, the employer/supervisor shall cease attempts to administer an alcohol test and shall prepare and maintain the same record; and/or*

If a drug test required by this section is not administered within 32 hours following the accident, the employer shall cease attempts to administer the test, and prepare and maintain on file a record stating the reasons the test was not promptly administered.

10) Was an employee sent for post-accident blood drug and alcohol testing?

___ Yes ___ No

a) If Yes, is reason for testing noted on the checklist?

___ Yes ___ No

b) If the reason was not noted, provide explanation for testing here:

11) Supervisor Making Determination: _____

12) Employee Notified of Testing: Date: _____ Time: _____

13) Blood Alcohol Test Conducted: Date: _____ Time: _____

14) Blood Drug Test Conducted: Date: _____ Time: _____

15) Did the employee(s) refuse the test?

Yes No

If Yes, explain:

16) Did the employee leave the scene of the accident without just cause?

Yes No

If yes, explain:

17) Did either the drug or alcohol test occur more than two hours from the time of the accident?

Yes No

If yes, explain:

18) If an alcohol test was NOT conducted because more than 8 hours had elapsed before the employee was available for the alcohol test, please explain:

19) If a drug test was NOT performed because more than 32 hours had elapsed before the employee was available for a drug test, please explain:

20) Has the employee informed the employer of any known Prescribed or Over-the-Counter medicines that may affect their safety sensitive functions?

Yes No

If yes, when was notification given to the employer:

21) Name of person filling out the form: _____ Date: _____

22) Position of person filling out the form: _____

PRIOR TESTING HISTORY RELEASE OF INFORMATION FORMAT

[Note: FMCSA for CMV Drivers – records for 3 years; FAA for Pilots – records for 5 years.]

Section I. To be completed by the new employer, signed by the employee, and transmitted to the previous employer:

Employee Printed or Typed Name: _____

Employee SS or ID Number: _____

I hereby authorize release of information from my Department of Transportation regulated drug and alcohol testing records by my previous employer, listed in Section I-B, to the employer listed in Section I-A. This release is in accordance with DOT Regulation 49 CFR Part 40, Section 40.25. I understand that information to be released in Section II-A by my previous employer, is limited to the following DOT-regulated testing items:

1. Alcohol tests with a result of 0.04 or higher;
2. Verified positive drug tests;
3. Refusals to be tested;
4. Other violations of DOT agency drug and alcohol testing regulations;
5. Information obtained from previous employers of a drug and alcohol rule violation;
6. Documentation, if any, of completion of the return-to-duty process following a rule violation.

Employee Signature: _____ Date: _____

I-A:

New Employer Name: _____

Address: _____

Phone #: _____ Fax #: _____

Designated Employer Representative: _____

I-B:

Previous Employer Name: _____

Address: _____

Phone #: _____ Designated Employer Representative (if known): _____

Section II. To be completed by the previous employer and transmitted by mail or fax to the new employer:

II-A. In the two years prior to the date of the employee's signature (in Section I), for DOT-regulated testing ~

1. Did the employee have alcohol tests with a result of 0.04 or higher? YES ___ NO ___

2. Did the employee have verified positive drug tests? YES ___ NO ___

3. Did the employee refuse to be tested? YES ___ NO ___

4. Did the employee have other violations of DOT agency drug and alcohol testing regulations? YES ___ NO ___

5. Did a previous employer report a drug and alcohol rule violation to you? YES ___ NO ___

6. If you answered "yes" to any of the above items, did the employee complete the return-to-duty process?

N/A ___ YES ___ NO ___

NOTE: If you answered "yes" to item 5, you must provide the previous employer's report.

If you answered "yes" to item 6, you must also transmit the appropriate return-to-duty documentation (e.g., SAP report(s), follow-up testing record).

II-B. Name of person providing information in Section II-A: _____

Title: _____

Phone #: _____

Date: _____