

MUNICIPAL ORDER NO. 2009-2

City of Burkesville, Kentucky
Drug & Alcohol Free Workplace Policy
August 20th, 2009

1. POLICY - PURPOSE AND GOALS

Being aware of the costs, in human terms, of the abuse of alcohol, illicit substances, and illegal drugs; and realizing the costs, both actual and potential in monetary terms, of the abuse of alcohol, illicit substances and illegal drugs in the workplace; the City of Burkesville, Kentucky (the City) is committed to protecting the safety, health and well being of all employees of the City and other individuals who make use of the City's facilities. Likewise, the City is committed to ensuring that its facilities provide a safe and healthy environment for the conduct of City business for all of the citizenry of the City of Burkesville. Additionally, the City wishes to accomplish the following with the establishment of this policy:

- As a recipient of Federal Funds, to comply with the Drug Free Workplace Act of 1988 (PL100-690, Title V, Schedule D).
- To inform employees that testing for controlled substances and alcohol is required as a condition of employment with the City of Burkesville.
- To reduce the number of accidents and injuries to persons and property.
- To reduce absenteeism and tardiness, and to increase the productivity of all employees of the City.
- To help ensure the reputation of the City and its employees throughout the community.
- To provide leadership in helping to stem the tide of the abuse of alcohol, illicit substances and illegal drugs throughout our community and the Commonwealth of Kentucky as a whole.

It is with these goals in mind that the City issues this policy, declaring itself a Drug and Alcohol Free Workplace and hereby issues these accompanying rules regarding drug and alcohol use in the workplace for the City of Burkesville.

The unlawful manufacture, distribution, dispensation, possession, or use of alcohol or a controlled or illicit substance is prohibited in the workplace.

2. DEFINITIONS

Accident – an unexpected and undesirable event resulting in damage or harm. For the purposes of this policy, the resulting damage or harm may constitute an injury which requires off-site medical attention be given to a person or damage to a vehicle or other property.

Alcohol – means any intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol. This includes over-the-counter and prescribed medications which contain more than one-half (1/2) of one percent (1%) of alcohol by volume.

Alcohol Testing - the testing for alcohol content by an Evidential Breath-Testing Device (EBT) or other Department of Transportation (DOT) approved device. DOT approved devices and procedures will also be used for non-DOT alcohol tests.

Drug – means a controlled substance as defined in KRS 218A.010(6) and as established in 902 KAR Chapter 55, including:

1. Amphetamines
2. Cannabanoids (THC)
3. Cocaine
4. Opiates
5. Phencyclidine (PCP)
6. Benzodiazepines
7. Propoxyphene
8. Methaqualone
9. Methadone
10. Barbiturates
11. Synthetic Narcotics
12. Illicit Substances as defined in KRS 351.010
13. Volatile Substances as defined in KRS 217.900(1)

Drug or Alcohol Rehabilitation Program – means a service provider that provides confidential, timely, and expert identification, assessment, treatment and resolution of employee drug or alcohol abuse.

Drug Test or Test – means a chemical, biological, or physical instrumental analysis administered by a qualified laboratory, for the purpose of determining the presence or absence of a drug or its metabolites or alcohol pursuant to standards, procedures, and protocols established by the U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA).

Employee Assistance Program (EAP) – means an established program providing:

1. Professional assessment of employee personal concerns.
2. Confidential and timely services to identify employee alcohol or drug abuse.
3. Referrals of employees with alcohol or drug abuse issues for appropriate diagnosis, treatment, and assistance.
4. Follow-up services for employees who participate in a drug or alcohol rehabilitation program and are recommended for monitoring after returning to work.

Heightened Safety Awareness Level (HSAL) – those positions involving special, dangerous and skilled activities and those that would involve exceptional duty to community citizens in the area of public safety. These positions are often referred to as “Safety Sensitive” positions.

Illicit Substance – means those prescription drugs used illegally or in excess of therapeutic levels as well as illegal drugs.

Medical Review Officer (MRO) – means a licensed physician with knowledge of substance abuse disorders, laboratory testing, and chain of custody collection procedures, and who has the ability to verify positive, confirmed test results. The MRO shall possess the necessary medical training to interpret and evaluate a positive test result in relation to the person's medical history or any other relevant biomedical information.

Qualified Laboratory – means a laboratory certified in accordance with the National Laboratory Certification Program (NLCP) by the United States Department of Health and Human Services' Substance Abuse and Mental Health Services Administration (SAMHSA).

Reasonable Suspicion – as used in this policy, the term reasonable suspicion means, a belief that an employee is using or has used drugs or alcohol in violation of this policy, drawn from specific, objective and articulable facts and reasonable inferences drawn from those facts in light of experience, training, or education.

Refusal to Submit – means the failure to provide adequate breath for testing without a valid medical explanation after the employee has received notice of the requirement for breath testing; or, the failure to provide adequate urine for controlled substances testing without a valid medical explanation after the employee receives notice of the requirement of urine testing; and/or engaging in conduct that clearly obstructs the testing process.

Substance Abuse Professional – A licensed or certified psychologist, social worker, employee assistance professional or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders.

Volatile Substance – means any glue, cement, paint or other substance as described in KRS 217.900(1)

3. APPLICABILITY

This policy is intended to apply whenever anyone is representing or conducting business for the City of Burkesville. Accordingly, this policy applies during all working hours, while on call or 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 positions identified as requiring a heightened safety awareness level include but may not be limited to:

- Police Officers
- Firefighters
- Emergency Dispatchers
- Street Department Employees
- Sanitation Department Employees
- Water Department Employees
- Drivers of CDL Vehicles
- Mechanics who perform work on CDL vehicles

NOTE: The positions identified above as having a Heightened Safety Awareness Level include but are not limited to those regulated under 49 CFR (49 CFR). While this program includes those federally mandated employees, this Drug and Alcohol-Free Workplace Policy is not intended to replace and shall be separate from any Drug and Alcohol-Free Workplace Policy previously adopted and implemented by the Authority which may have included only federally regulated employees. All federally regulated employees will first be administered a five (5) panel urine test for all mandated testing reasons, to comply with federal regulations regarding their specific position; but will also be administered an eleven (11) panel urine test for drugs under this additional Drug Free Workplace Policy (in addition to the initial five (5) panel federal test) for all mandated reasons as stated in this policy.

4. POLICY REQUIREMENTS

4.1 Training

The City shall conduct substance abuse awareness training for all employees. This substance abuse awareness training shall consist of the following minimum requirements:

- **Upon a conditional offer of employment** with the City of Burkesville, each applicant shall be provided a copy of and will be asked to read the City's Drug & Alcohol-Free Workplace policy. All existing employees will also be asked to read and sign the **Certification of Acknowledgement – Drug & Alcohol-Free Workplace Policies and Procedures Form (Appendix A)**
- **Initial training** shall consist of at least 1-hour for all employees.
- **Annual refresher training** shall be conducted for all employees in substance abuse awareness and shall consist of no less than thirty- (30) minutes.
- All alcohol and substance abuse awareness training will include, at a minimum, information concerning:
 1. Alcohol and drug testing policy and procedures;
 2. The effects of alcohol and drug use on an individual's health, work and personal life;
 3. The disease of alcohol or drug addiction;
 4. Signs & symptoms of an alcohol and drug problem;
 5. The role of co-workers and supervisors in addressing alcohol or substance abuse; and
 6. Referrals to an employee assistance program.
- **Supervisory personnel**, in addition to all of the above training shall receive an additional thirty (30) minutes each year of alcohol and substance abuse education and awareness training. This additional supervisory training will be documented using, the **Supervisor Training Certification Certificate**. This additional supervisory training shall consist of at least the following:
 1. Recognizing the signs of alcohol and substance abuse in the workplace.
 2. How to document signs of employee alcohol or substance abuse.
 3. How to refer employees to an employee assistance program or other alcohol and substance abuse treatment program; and
 4. Legal and practical aspects of reasonable suspicion testing for the presence of drugs and alcohol.

NOTE: The City of Burkesville's Drug and Alcohol-Free Workplace Program shall include controlled-access maintenance in the Office of the Mayor, of business records including the names and position titles of all employees and supervisory personnel trained under the program as described above, and the names of all persons who presented alcohol and substance abuse awareness training, for review by the Office of Worker's Claims.

NOTE: Should this policy be amended, employees shall be provided with copies of any change or modification and given an opportunity to ask questions and obtain answers regarding any change in this policy. However, changes may not be made to the policy which would circumvent any requirement(s) associated with 803 KAR 25:280.

4.2 DRUG AND ALCOHOL TESTING

The City of Burkesville currently uses *Kentucky Alternative Programs (KAP)* located at *Newport, Kentucky* as its laboratory of choice for the collection of urine samples in the case of testing for controlled substances , and for the administration of breathalyzer tests for alcohol concentration. KAP is also the City's third-party administrator of choice for the random selection category of testing. Employees are selected by KAP using a statistically valid method of selection of specific employee codes. This random testing will be reasonably spaced over a twelve (12) month period. Because of the random nature of the selection process, any employee may be tested more than once, or not at all. All urine samples are forwarded for analyzation to *MedTox Laboratories, Inc, St. Paul, Minnesota* which is a laboratory approved by the National Laboratory Certification Program (NLCP) under the United States Department of Health and Mental Services Substance Abuse and Mental Health Services Administration (SAMHSA).

The City shall administer alcohol and drug tests in circumstances which include but may not be limited to the following:

- 4.2(a) Reasonable Suspicion Testing** – A reasonable suspicion test shall be based on a belief that an employee is using or has used drugs or alcohol in violation of this policy, drawn from specific objective facts and reasonable inferences drawn from those facts in light of experience, training or education. The reasonable suspicion testing shall be based upon:
- a) While at work, direct observation of drug or alcohol use or of the physical symptoms or manifestations of being under the influence of a drug or alcohol;
 - b) While at work, abnormal conduct, erratic behavior, or a significant deterioration in work performance;
 - c) A report of drug or alcohol use provided by a reliable and credible source;
 - d) Evidence that an individual has tampered with a drug or alcohol test during employment with the City;
 - e) Information that an employee has caused, contributed to, or been involved in an accident while at work;
 - f) Evidence that an employee has used, possessed, sold, solicited, or transferred illegal or illicit drugs or used alcohol while on the City's premises or while operating the City's vehicle, machinery or equipment.

The Mayor or his/her authorized designee shall be notified immediately of any indication of reasonable suspicion. Both the observing department supervisor and the Mayor or his/her representative (if available) 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 a representative from the Office of the Mayor is not available, the observing supervisor shall obtain the assistance of another City of Burkesville supervisor or other credible and reliable source and together they shall complete the Reasonable Suspicion Observation Form, and forward it to the mayor or his/her designee. 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 his/her designee will notify the employee and accompany him/her to the testing site.

When a reasonable suspicion test is ordered, the employee must submit to testing within 45 minutes of being notified that he/she will be tested. The observing supervisor and/or designee shall remain at the testing site with the employee being tested, until the collection process is completed. Any employee who is tested for reasonable suspicion shall be placed on 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 Mayor or his/her authorized designee may order a reasonable suspicion test.

4.2(b) Pre-Employment Testing – Breath alcohol and urine drug testing shall be required of all new hire applicants after their receipt of a conditional offer of employment. After receiving the conditional offer of employment, applicants will have 48-hours in which to submit to testing at a testing facility of the City's choosing. The City of Burkesville requires that every newly hired employee test free of controlled substances and have a breath alcohol concentration of not more than 0.00. Each offer of employment by the City shall be conditional upon the passing of controlled substance and alcohol tests. Refusal by any applicant for employment with the City to take the controlled substance test will result in the conditional offer of employment being withdrawn. All testing under this policy will be in accordance with Testing Protocols described elsewhere in this policy.

- a) An applicant with a confirmed positive test for controlled substances and/or alcohol in a concentration of greater than 0.00 , which is not legitimately explained to and accepted by a Medical Review Officer of the City's choosing, will not be considered for employment.
- b) Any applicant who fails a controlled substance test may not be considered for future employment with the City of Burkesville.
- c) Any applicant who refuses to take a controlled substance test will be disqualified from future consideration for employment.
- d) Any applicant who tampers with, or attempts to tamper with, a urine specimen in any manner shall be disqualified from current and future consideration of employment with the City.
- e) An applicant whose positive test is confirmed and upheld by the Medical Review Officer (MRO) may request that the same sample be retested at his/her own expense at a City approved laboratory.

Individuals undergoing pre-employment testing shall not begin official employment with the City until after all test results are received and shown to be negative. Upon receipt of the test result, positive or negative, the Mayor or his/her authorized designee shall inform the appropriate Department Head of the results.

4.2(c) **Random Testing** – Employees in a High Safety Awareness Level (HSAL) position will be required to participate in a statistically valid, unannounced random selection process, which will subject them to mandatory drug testing. Positions in which an employee is required to have a Commercial Driver’s license (CDL), must be tested at a rate of fifty percent (50%) for drugs annually to satisfy Department of Transportation (DOT) requirements. In the case of random testing for drug use, non-federally regulated HSAL positions will be tested for drugs at a rate of no more than twenty percent (20%). All employees in federally regulated HSAL positions shall be selected from a pool that is separate from the random selection pool for other non-federally regulated HSAL positions. All testing required under 49 CFR, Part 40 will be separate and apart from any other testing required under this policy. The Mayor shall utilize a third party to conduct the random selection of HSAL employees, including employees with a CDL, to be tested. This random testing shall be unannounced and will take place throughout each calendar year. HSAL employees are selected by a third party administrator using a statistically valid, random method of selection using specific employee codes. Because of the random nature of this testing process, HSAL employees may be selected for testing more than once or not at all. Once an employee is notified that he/she has been selected for testing, the employee must proceed immediately to the testing site of the City’s choosing.

NOTE: Employees in non-HSAL positions will not be included in the random selection pool. However, non-HSAL employees will be subject to testing upon reasonable suspicion of possible alcohol or drug use and may be subject to testing for other reasons listed in this policy. Procedures and protocols for reasonable suspicion, pre-hire, post-accident, return-to-work and follow-up testing as described elsewhere in this policy will apply in their case.

4.2(d) **Post Accident Testing** – Drug and alcohol testing will be conducted following an employee’s involvement in an accident on or off the City’s premises while on duty, or in the course of employment for the City, which requires off-site medical attention, be administered to a person. An accident not necessarily requiring that off site medical attention be given to a person but which results in property damage of five hundred dollars (\$500.00) or more shall be deemed a “qualifying event” for requiring post-accident testing. Drug and alcohol testing will be required of the employee(s) who were actively involved in the “qualifying event”.

Qualifying Event Exception: Due to varying types of accident cause, all accidents categorized as a “qualifying event” may not require post-accident testing. Exceptions to the “qualifying event” for requiring post-accident drug and alcohol testing will include, but may not be limited to the following types of accidents:

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 (i.e. injuries caused by a third party or some other uncontrollable force or event, i.e. weather, insects, toxic plants, 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 accident, i.e. was performing training as instructed.

In each case, the Mayor or his/her designee shall determine the necessity of drug and alcohol testing and shall communicate such testing with the involved employee and the employee's respective department head. The Mayor or his/her authorized designee shall coordinate all required tests with the appropriate medical facilities.

An employee involved in an accident while on an out-of-town assignment, shall notify their Department Director or the Director's designee as soon as possible but no later than two (2) hours after the accident occurred. The Department Director shall notify the Mayor or his/her authorized designee to discuss possible drug/alcohol testing requirements.

Other Qualifying Event: The Department Director or his/her designee may request controlled substance/alcohol testing when an employee caused or cannot be completely discounted from causing a vehicular or any other type of accident in which a safety violation occurs and death, serious bodily injury or major property damage did result or could have resulted. The Mayor or his/her designee, along with the employee's supervisor, will be responsible for determining whether a safety violation has occurred. In each case, the Mayor or his/her designee shall determine the necessity of drug and alcohol testing and shall communicate such testing with the involved employee and the employee's department head. If a post accident controlled substance/alcohol test is required, a confirmed positive test result will result in the employee's immediate termination.

4.2(e) Follow-up Testing – Any employee returning to work from successful completion of an Employee Assistance Program (EAP) for alcohol-related problems, or a alcohol rehabilitation program, shall be required to undergo one (1) year of quarterly drug and alcohol testing. The frequency of the follow-up testing shall consider recommendations of any involved Substance Abuse Professional (SAP) but shall be not less than once per quarter (every three months) for one (1) year. All follow-up testing may be requested at any time and shall be unannounced.

4.2(f) Return-To Duty Testing – *In all cases, it shall be at the discretion of the City of Burkesville as to whether to allow an employee who has violated any provision of this policy to continue in the City's employment.* In view of the fact that the use of non-prescribed drugs is illegal, a positive test for controlled substances will result in the immediate termination of the employee testing positive. In the event that an employee who has tested positive for alcohol without a valid medical reason for a positive test, as confirmed by a Medical Review officer of the Authority's choosing, is allowed to enter a controlled substance/alcohol abuse rehabilitation program, the employee may be allowed to return to work only under the following circumstances:

- a) The employee may resume regular duties only after the employee tests negative in an alcohol test administered by the City approved laboratory and can provide a release to return to work from an appropriate substance abuse treatment facility or confirmation of continued and on-going participation in a City recognized alcohol abuse assistance program. An employee must test negative within a reasonable period of time from receipt of the initial test results not to exceed forty-five (45) days. Any repeat occurrence of substance abuse or violation of any other aspect of the City's Drug Free Workplace Policy will result in immediate termination.
- b) Prior to returning to work, the employee shall be required to meet with the Mayor or his/her designee to receive an explanation of the terms of continued employment; and to sign a written Treatment Plan/Return-to-Work Agreement, detailing the terms under which the employee will be allowed to return to work. Such agreement shall stipulate that the employee, at the City's request, may be required at any time, to submit to interviews and/or evaluation by the professional staff at an appropriate chemical dependency treatment facility approved by the City's Employee Assistance Program (EAP). The return-to-work agreement will also stipulate that the employee be required to submit to unannounced controlled substance and/or alcohol testing for up to twelve (12) months after resuming duties.

4.3 Testing Protocol

The collection of samples and administration of drug and alcohol tests shall follow all standards, procedures and protocols set forth by the U.S. Department of Health and Human Services Substance Abuse and Mental Health Administration (SAMHSA). Test results will be obtained by a qualified laboratory as defined elsewhere in this policy and results shall undergo a medical review as follows:

- 1) All test results shall be submitted for medical review by a Medical Review Officer (MRO) of the Authority's choosing, who shall consider the medical history of the employee or applicant, as well as relevant biomedical information.
- 2) If there is a positive test result, the employee or applicant will be given an opportunity to report to the MRO the use of any prescription or over-the-counter medication.
- 3) If the MRO determines that there is a legitimate medical explanation for a positive test result, the MRO may certify that the test results do not indicate the unauthorized use of alcohol or a controlled substance.
- 4) If the MRO determines, after appropriate review, that there is not a medical explanation for the positive test result other than the unauthorized use of alcohol or a prohibited drug, the MRO shall refer the individual tested to the Executive Director for further proceedings in accordance with the Authority's Drug Free Workplace Policy.

Note: MRO determinations concerning the use of alcohol or a controlled or illicit substance shall comply with all procedures outlined in the U. S. Department of Health and Human Services (SAMHSA) "Medical Review Officer Manual for Federal Drug Testing Programs".

4.4 Testing Process

Any employee who has been ordered to undergo testing for drugs and/or alcohol shall receive an Alcohol and/or Drug Test Notification Form.

Employees shall report to the collection site of the City's choosing immediately after being provided the notification to test. In the case of reasonable suspicion testing, a supervisor or designee shall escort the employee to the collection site. Drug testing will be conducted by urine sample while alcohol testing will be analyzed using a breath alcohol testing/screening device. Drug and alcohol analysis will be performed by a trained technician. All testing shall follow the prescribed standards, procedures and protocols set forth by the U.S. Department of Health and Human Services' Substance Abuse and Mental Health Administration (SAMHSA).

To ensure that the test specimen is actually that of the donor, collection site staff will require positive identification of the test subject.

Alcohol

The City shall require all tests for alcohol to be performed by a Certified Breath Alcohol Technician (BAT).

Drugs

An eleven (11) panel urine test will be conducted and shall include analysis for the following substances:

- 1) Amphetamines;
- 2) Cannabinoids/THC;
- 3) Cocaine;
- 4) Opiates; –
- 5) Phencyclidine (PCP)
- 6) Benzodiazepines;
- 7) Propoxyphene;
- 8) Methaqualone;
- 9) Methadone;
- 10) Barbiturates;
- 11) Synthetic Narcotics

5. PROHIBITED ACTIVITY

Prohibited activities involving the use of alcohol or controlled substances are listed in the following paragraphs.

The City of Burkesville reserves the right to define and interpret prohibited activities that specifically include, but may not be limited to:

5.1 Alcohol

Prohibited conduct involving the use of alcohol includes the following:

- The performance of or being immediately available to perform work duties while having an alcohol concentration greater than 0.00.
- The consumption of alcohol or products containing alcohol during the performance of or being immediately available to perform work responsibilities.

- In the case of HSAL employees, having in possession, alcohol or products containing alcohol during the performance of or being immediately able to perform HSAL work responsibilities. This includes the possession of medicines containing alcohol (prescription or over-the-counter) unless the seal is unbroken and/or the medication is prescribed by a licensed physician, and said physician has confirmed the necessity of the HSAL employees' said possession of the prescribed substance containing alcohol and has confirmed that the use of such substance will not deter from the employees ability to safely perform assigned HSAL responsibilities. In the latter case, a Prescription Drug Notification Form must be on file with the Mayor or his/her authorized designee.
- The performance of or being immediately available to perform those responsibilities designated as requiring a Heightened Level of Safety Awareness within four hours after using alcohol.
- The transportation of alcoholic beverages within City owned vehicles or equipment is strictly prohibited.
- The use of alcohol for eight hours immediately following an accident requiring a post-accident alcohol test or until a post-accident test is administered, whichever occurs first.
- Refusal (which is defined elsewhere in this policy), to submit or cooperate with any of the required testing types.
- The operation of a City owned vehicle following consumption of alcoholic beverages shall be considered a violation of this policy and shall result in disciplinary action. Alcoholic beverages in open or closed containers are strictly prohibited in City owned vehicles and equipment.

NOTE: Employees attending training programs and/or conferences related to their employment with the City may participate in social functions associated with the program or conference. If alcoholic beverages are present at the social function and the employee chooses to engage in consumption of said beverage(s), they shall do so at their own discretion. Employees who choose to engage in the consumption of alcoholic beverages as part of a work related social function shall do so in a responsible manner, maintaining a conduct that would not reflect adversely upon the City . Any unbecoming conduct by an employee who has chosen to consume alcohol at such conference or training program that has an adverse effect upon the City will be subject to disciplinary action up to and including termination of employment.

Note: Alcohol includes any intoxicating agent in beverage alcohol, methyl, and isopropyl alcohol whether used for medicinal purposes or not. Many over-the-counter and prescription medications contain high percentages of alcohol.

Note: Employees are hereby notified that they shall inform the Mayor or his/her authorized designee, of any drug or alcohol related criminal charge or conviction within five (5) days of said charge or conviction. The Mayor shall take appropriate action within thirty (30) days.

5.2 Drugs or Controlled Substances

Prohibited conduct involving the use of drugs or controlled substances includes, but may not be limited to, the following:

- Prescription and over-the-counter drugs are not prohibited when taken in standard dosage and/or according to a physician's prescription. However, any HSAL employee taking prescribed or over-the-counter medications will, in all cases, be responsible for consulting the prescribing physician and/or pharmacist to ascertain whether the medication may interfere with safe performance of his/her HSAL job duties. Prior to initiating usage after such medications are prescribed, the HSAL employee shall submit a Prescription Drug Notification Form to their immediate supervisor who shall in turn, submit it to the Mayor or his/her authorized designee as soon as possible.

After receiving such form, the Mayor or his/her designee may request written medical authorization showing the HSAL employee may possess/use such medication, that it was used in the prescribed manner and showing the HSAL employee is fit to safely perform HSAL assigned duties. If the use of such medication could compromise the safety of the HSAL employee, fellow employees, or the public at large, it is the HSAL employee's responsibility to use appropriate personnel procedures (e.g., call in sick, use leave, request change of duty and notify his/her supervisor) to avoid unsafe workplace practices. No prescription drugs shall be brought onto City property, or consumed on City property by anyone other than the individual for whom the drugs have been prescribed by a licensed medical practitioner. The illegal or unauthorized use of prescription drugs is strictly prohibited. It is a violation of the City's Drug Free Workplace Policy to intentionally misuse and/or abuse prescription medications.

Appropriate disciplinary action will be taken if job performance deterioration and/or other accidents occur as the result of the intentional misuse and/or abuse of prescription medication.

The City reserves the right to have a designated physician of the City's choosing to determine if a prescription drug or medication produces effects that would be considered unacceptable in the performance of assigned HSAL work duties. The City's physician has final determination on whether the medication will have or is having an unacceptable effect on the HSAL employee's performance of duties. In such instances of temporary impediment to safe performance of regular HSAL duties, the HSAL employee may be temporarily reassigned to duties requiring a lesser safety awareness level if such duties are available.

All doctors' statements and related medical information shall be confidential and maintained in a separate medical file in the Office of the Mayor.

- Testing positive for any of the prohibited substances during the performance of or upon being immediately available to perform work responsibilities.
- The performance of or being immediately available to perform HSAL work responsibilities while using any controlled substance, except when the use is under the instructions of a physician who has advised that the use will not adversely affect the HSAL user's ability to safely perform HSAL responsibilities as assigned.
- In the case of HSAL employees, having in possession, drugs or controlled substances except when the use is under the instructions of a physician who has advised that the use will not adversely affect the HSAL user's ability to safely perform HSAL responsibilities as assigned during the performance of or being immediately available to perform HSAL work responsibilities.

- Refusal (as defined elsewhere in this policy) to cooperate with any of the requested testing types.
- Tampering with or attempting to alter, or actual altering of a test specimen is strictly prohibited and is grounds for immediate termination from employment with the City.

5.3 Volatile Substances

The **intentional misuse**, manufacture, sale, distribution, dispensation, or possession of a volatile substance as defined in KRS 217.900 which includes any glue, cement, paint or other substance containing a solvent or chemical having the property of releasing toxic vapors or fumes which when **intentionally inhaled** may cause a condition of intoxication, inebriation, stupefaction, dulling of the brain or nervous system, or distortion or disturbance of auditory, visual, or mental processes while at work, while on City owned property, or while conducting City business while **off** City owned property, is strictly prohibited and is considered cause for immediate discipline, up to and including termination. Such misuse shall also be reported to law enforcement officials.

6. Searches

When reasonable cause exists, the City reserves the right to conduct unannounced searches for controlled substances or alcohol anywhere on City property, including but not necessarily limited to:

- Lockers
- Desks
- File Cabinets
- City Vehicles and Equipment
- Stationary Containers

All searches must be authorized and conducted under the direction of the City of Burkesville, Kentucky's Police Department. Searches will be limited to a search that would be sufficient to locate the item(s) being sought. Employees who refuse to cooperate during such unannounced searches of city property shall be subject to disciplinary action, up to and including termination.

7. CONSEQUENCES OF ENGAGING IN PROHIBITED CONDUCT - ALCOHOL

The first time an employee, as a result of a random, reasonable suspicion, follow-up or post-accident test is found to have an alcohol concentration above 0.00, disciplinary action up to and including termination will be administered, depending upon the circumstances, including the employee's willingness to voluntarily resolve any medical or psychological condition relating to the employee's conduct and to seek evaluation, counseling and possible treatment or rehabilitation for **alcohol** related abuse.

Any **second offense**, in which the employee's test for alcohol indicates a concentration above 0.00, is considered grounds for **immediate termination**.

8. CONSEQUENCES OF ENGAGING IN PROHIBITED CONDUCT – DRUGS

In view of the fact that the use of non-prescribed drugs is illegal, employees testing positive without a valid medical or bio-medical reason as confirmed by a Medical Review Officer of the City's choosing will be immediately terminated.

9. CONSEQUENCES OF ENGAGING IN PROHIBITED CONDUCT – VOLATILE SUBSTANCES

Any employee who engages in prohibited conduct for volatile substances as described elsewhere in this policy will be subject to disciplinary action up to and including immediate termination of employment depending on the circumstances, including the employees willingness to voluntarily resolve any medical or psychological condition relating to the employee's conduct and to seek evaluation, counseling and possible treatment or rehabilitation for the abuse of **volatile substances**.

10. CONSEQUENCES OF REFUSAL TO SUBMIT TO AN ALCOHOL OR CONTROLLED SUBSTANCE TEST

An employee is considered to have refused to submit to testing when he or she:

- Fails to appear for any test within a reasonable time.
- Engages in conduct that clearly obstructs the testing process.
- Fails to provide a urine specimen for drug testing or a breath specimen for alcohol
- Fails to provide enough urine for drug testing or an adequate amount of breath for alcohol testing and there is no medical explanation for the failure to produce.
- In the case of directly observed or monitored drug test collection, the employee submitting the specimen fails to permit the observation or monitoring of his or her provision of the specimen.
- Fails to or declines to take a second drug test when directed by an employer or collector.
- Fails to undergo a medical examination or evaluation as directed by the MRO as part of the verification process.
- Fails to cooperate with any part of the testing process.

Failure to submit to an alcohol or controlled substance test as described above will result in immediate termination.

A judgment of "refusal to submit" will not apply to pre-employment testing, unless the applicant has begun the testing process and leaves or engages in conduct that clearly obstructs the testing process.

11. OFF DUTY ALCOHOL, DRUG USE AND/OR VOLATILE SUBSTANCE INTENTIONAL MISUSE AND CALL BACK.

In no way, is it the intention of the City of Burkesville to interfere in the private lives of its employees. However, all employees should be aware that an employee's off-duty use of alcohol, illegal use of controlled substances, intentional misuse of prescription drugs or intentional misuse of volatile substances as described in this policy which result in excessive absenteeism, tardiness, or poor work performance will be subject to discipline, up to and including termination of employment. With the exception of employees found to be using non-prescribed prescription drugs, such employees may be subject to counseling or treatment through the Authority's Employee Assistance Program.

The drug, alcohol, intentional misuse of prescription drugs and the intentional misuse of volatile substance prohibitions apply to employees who are on call for any special operation exhibiting a likelihood of requiring an employee to report to work (i.e. snow removal, natural disasters, etc.). An employee who is called back to work to perform duties involving a heightened safety awareness level must report any:

- Off duty use of alcohol in the prior four hours
- Medically prescribed use of a controlled substance

An employee who is aware of a possible callback situation that may be reasonably expected, who engages in the off-duty use of alcohol, the illegal use of controlled substances or the intentional misuse of volatile substances will be subject to disciplinary action up to and including termination.

12. EMPLOYEE ASSISTANCE PROGRAM

Alcoholism and controlled substance addiction are recognized as diseases responsive to proper treatment. The City of Burkesville provides a level of care through its Employee Assistance Program (EAP) provided by LifeServices EAP. Any employee wishing to voluntarily seek assistance with drug/alcohol problems, may contact the EAP at:

1 800 822-4847

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All employees of the City of Burkesville are strongly encouraged to voluntarily contact the Employee Assistance Program if they believe they might have a problem with drug or alcohol abuse.

Other resources for information:

1 800 356-9996 A1 – Aanon
1 800 527-5344 American Council on Alcoholism
1 800 662-4347 Center for Substance Abuse Treatment
1 800 967-5752 Drug Free Workplace Helpline

If an employee covered by this policy has been identified by a Substance Abuse Professional (SAP) as needing assistance in resolving problems associated with alcohol or volatile substances, the employee will be subject to follow-up drug and alcohol testing as prescribed elsewhere in this policy. The SAP shall be either a licensed physician, certified psychologist, social worker, employee assistance professional or addiction counselor.

Employees who voluntarily report an alcohol abuse problem prior to being required to take an 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, he or she will be subject to disciplinary action up to and including termination of employment. Failure to seek such assistance, or failure to abide by the terms of the treatment plan, shall be grounds for termination. Upon voluntarily reporting an alcohol abuse problem, the employee will be required to sign a Substance Abuse Treatment Plan/Return to Work Agreement Form that will further define conditions of continued employment.

The LifeServices Employee Assistance Program provides services to employees of the City of Burkesville regardless of race, color, religion, national origin, disability, sex or age.

13. RECORDS RETENTION, RELEASE AND CONFIDENTIALITY

The City shall maintain records of activities related to these Drug Free Workplace policies and procedures. All employee records regarding drug or alcohol testing are considered confidential and will be kept under controlled access in the Office of the Mayor. Employee records may not be released except upon written request or release by the employee, the release is ordered by a court or tribunal of competent jurisdiction or the release is to be used in a proceeding related to a benefit sought by the employee, such as worker's compensation or unemployment insurance.

The City shall maintain records and documents of all alcohol and drug test results, schedules for follow-up tests and records relating to evaluation and referrals. These records shall be maintained for a period of at least five (5) years. The City shall provide test result information or other pertinent information relating to an applicant or existing employee's alcohol or controlled substance tests upon the applicant or existing employee's written request, and shall do so within five (5) working days of being notified of the employee's request.

14. CITY FINANCIAL ASSISTANCE

The City of Burkesville will pay for all conducted tests as described in this policy except for a second controlled substance test (if requested by the employee) when that test confirms the initial test to be positive. Employees may utilize all service benefits available through the Authority's Employee Assistance Program (EAP) as described elsewhere in this policy. However, any other services that may be required by a Substance Abuse Professional which are not covered through the EAP will be at the expense of the employee being treated.

15. DRUG FREE WORKPLACE POLICY ADMINISTRATION AND ENFORCEMENT

It shall be the responsibility of the Mayor of the City of Burkesville, Kentucky to administer and enforce this policy. This policy and its programs are not to be interpreted or modified by any other City supervisor.

16. RESPONSIBILITY

While it is ultimately the City's legal, ethical and moral responsibility to create and maintain a safe and healthful workplace for its employees, for others who make use of the City's facilities, and for the general citizenry of the City of Burkesville, Kentucky who may have business with the City; it is also true that safety is everyone's responsibility. Accordingly, every employee has an obligation to report violations of this policy to their immediate Supervisors, Department Directors or to the Mayor or his/her authorized designee in order to maintain a safe and healthful work environment for themselves, for their fellow employees and for the public-at-large. All Supervisors and Department Directors are responsible for the drug and alcohol-free operation of their respective departments.

NOTE: The City of Burkesville may change, modify, amend or rescind all or part of this policy at any time which deals with the actual administration of the policy itself. However, changes may not be made to the policy which would circumvent any requirements associated with 803 KAR 25:280.

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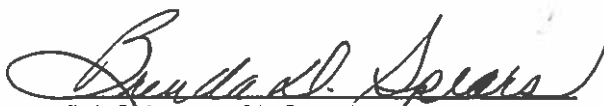
Adopted by the City of Burkesville on June 18th, 2009.

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KEITH RIDDLE, Mayor

Attest:



BRENDA D SPEARS, CITY CLERK