

RESOLUTION NO. 73

**A RESOLUTION OF THE CITY OF UNIVERSITY PLACE,
WASHINGTON, AMENDING RESOLUTION NO. 33
ESTABLISHING PERSONNEL POLICIES & PROCEDURES,
AMENDING SECTION 9.09 AND ADDING APPENDIX E TO
ESTABLISH A DRUG AND ALCOHOL TESTING POLICY FOR
CITY EMPLOYEES WHO DRIVE COMMERCIAL VEHICLES**

WHEREAS, the City of University Place adopted Resolution No. 33 on July 24 establishing policies and procedures relating to human resource administration, including general employment practices, policy administration, attendance, compensation and performance review, benefits, employee responsibilities and conduct, training, and discipline and termination; and

WHEREAS, the federal Omnibus Transportation Employee Testing Act of 1991 requires employers of Commercial Driver's License holders to conform to new drug and alcohol testing requirements by January 1, 1996,

WHEREAS, the City Council wishes to amend these Personnel Policies and Procedures as guidelines for City employees;

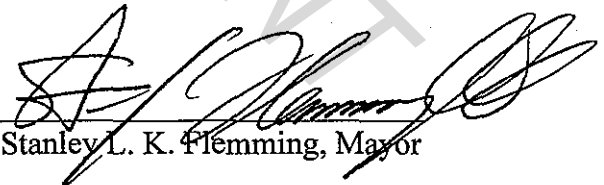
**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF UNIVERSITY
PLACE, WASHINGTON, AS FOLLOWS:**

Section 1. Section 9.09: Substance Abuse. Section 9.09 of the Personnel Policies Manual shall be amended as shown in Exhibit A to this resolution.

Section 2. Appendix E: Drug and Alcohol Testing Policy for Employees who Operate Commercial Vehicles. Appendix E as shown in Exhibit B to this resolution shall be added to the Personnel Policies Manual.

Section 3. Effective Date. This Resolution shall take effect on January 1, 1996.

ADOPTED BY THE CITY COUNCIL ON DECEMBER 20, 1995.


Stanley L. K. Flemming, Mayor

Attest:


Susan Matthew, City Clerk

EXHIBIT A TO RESOLUTION NO. 73

9.09 SUBSTANCE ABUSE

The City is committed to providing and maintaining a safe and productive work environment that is free from the effects of drugs, alcohol and other job impairing substances. It is primarily concerned with the well-being of employees and the public they serve. We encourage employees who are concerned about their alcohol or drug use to seek counseling, treatment and rehabilitation. All City employees are subject to the policies stated in this section (9.09). However, employees of the City who are required to have and maintain a Commercial Driver's License in order to perform the duties of their job are also subject to the "Drug and Alcohol Testing Policy for Employees who Operate Commercial Vehicles" in Appendix E of this manual. If there are any conflicts or contradictions between Appendix E and this section, Appendix E will preempt the language in this section.

City Resources Available: Although the decision to seek diagnosis and accept treatment may be voluntary, the City is fully committed to helping employees overcome substance abuse through its available resources. In most cases, the expense of treatment may be fully or partially covered by the City's benefit program. The Human Resources Manager can provide more information on available benefits. In recognition of the sensitive nature of these matters, all discussions will be kept confidential. Employees who seek advice or treatment will not be subject to retaliation or discrimination. Employees who refuse to seek treatment when requested by proper City authority are subject to disciplinary action for their actions or inactions.

Use of Medication: An employee taking prescription or non-prescription medication that may affect the employee's ability to work or may affect the safety of the employee, co-workers or the public is required to notify his/her supervisor prior to commencement of work. The supervisor will make a determination whether it is in the best interests of the employee and the City that the employee work, not work or be reassigned during the period of medication.

When Job Performance is Affected: Although the City's emphasis is on rehabilitation, it must be understood that disciplinary action may be taken when an employee continues to demonstrate problems in job performance or is involved with or under the influence of drugs or alcohol on the job. The City may discipline and/or immediately terminate an employee possessing, consuming, controlling, selling or using alcohol, drugs or other controlled substances during work hours. The City may also discipline and/or terminate an employee who exhibits an on-going dependence on alcohol, drugs or other controlled substances which, in the City's opinion, impairs the employee's work performance, poses a threat to the public confidence, or is a safety risk to the City or others.

Drug-Free Workplace: To comply with the requirements of the federal Drug-Free Workplace Act, the City adopts the following policies:

- The manufacturing, distribution, dispensation, possession and use of unlawful drugs or alcohol on City premises or during work hours by City employees is strictly prohibited.
- Employees must notify the City within five (5) days of any conviction for a drug violation in the workplace.
- Violation of this policy can result in disciplinary action up to and including discharge. Continued poor performance or failure to successfully complete a rehabilitation program is grounds for termination.

Drug Testing: The City may require an employee to undergo testing for drugs when it has reasonable cause or suspicion to believe an employee may be in violation of its drug-free workplace policy.

EXHIBIT B TO RESOLUTION NO. 73

City of University Place, WA

**Drug and Alcohol Testing Policy
for Employees who Operate Commercial Vehicles**

I. PURPOSE

The purpose of this policy is to establish compliance with the Federal Highway Administration regulations requiring drug and alcohol testing for Commercial Driver's License holders. Regulations issued by the United States Department of Transportation mandate urine drug and evidential breath alcohol testing for employees in safety-sensitive positions, including those who are required to hold a Commercial Driver's License. This policy sets forth the City of University Place alcohol and drug testing program and the testing and reporting requirements as required by those regulations.

II. APPLICATION

This policy applies to all employees of the City who are required to have and maintain a Commercial Driver's License in order to perform the duties of the job. Contractors performing functions for the City involving the use of a vehicle requiring a Commercial Driver's License, will be subject to specific alcohol and drug testing as required by federal regulations.

III. POLICY

The City has a significant interest in the health and safety of its employees and the citizens of the City of University Place. In furtherance of that interest, it is the policy of the City to take those steps necessary to ensure that its employees perform their duties and responsibilities free of the influence of drugs and alcohol. Employees are encouraged to seek confidential counseling on problems associated with alcohol and drug abuse. There will be mandatory drug and alcohol testing for employees and job applicants under the circumstances outlined in this policy.

IV. DEFINITIONS

ACCIDENT - Accident means an occurrence involving a commercial vehicle on a public road which results in (1) a fatality; (2) bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or (3) one or more motor vehicles incurring disabling damage requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.

DRIVER - This term includes all employees whose positions may involve driving a commercial vehicle and that require the possession of a Commercial Driver's License.

COMMERCIAL VEHICLE - A commercial vehicle is one that either: 1) has a gross vehicle weight of over 26,000 pounds (including combined weight if towed unit weighs over 10,000 pounds); 2) is designed to transport 16 or more persons, including the driver; or 3) is used to transport hazardous materials.

DRUGS - For the purposes of this policy, in accordance with the applicable federal regulations, "drugs" refers to the following five substances: marijuana (THC), cocaine, opiates, phencyclidine (PCP), and amphetamines.

MEDICAL REVIEW OFFICER (MRO) - The Medical Review Officer is the licensed physician responsible for receiving and interpreting laboratory results from the urine drug tests.

SAFETY SENSITIVE POSITION - For purposes of this policy, these are positions associated with the driving of commercial vehicles.

SUBSTANCE ABUSE PROFESSIONAL (SAP) - A Substance Abuse Professional is a licensed physician, or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug-related disorders. The SAP is responsible for evaluating employees with positive test results.

V. PROHIBITED CONDUCT

The following conduct regarding alcohol and drug use or abuse is prohibited:

A. ALCOHOL CONCENTRATION

An employee may not report for or remain on duty requiring the performance of duties covered under this policy while having an alcohol concentration of 0.04 or greater.

B. ALCOHOL POSSESSION AND ON DUTY USE OF ALCOHOL

An employee may not possess or use alcohol while on duty or while operating a commercial vehicle.

C. PRE-DUTY USE OF ALCOHOL

An employee may not operate a commercial vehicle within four hours after using alcohol. An on-call employee who consumes alcohol within four hours of being called in must acknowledge the use of alcohol and may not report for duty.

D. ALCOHOL USE FOLLOWING AN ACCIDENT

An employee required to take a post-accident alcohol test may not use alcohol for eight hours following the accident, or until a post-accident alcohol test is given, whichever comes first.

E. USE OF DRUGS

An employee may not report for duty or remain on duty which requires driving a commercial vehicle when the employee has used a drug or drugs, except when the use is pursuant to instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to

safely operate a commercial vehicle. Employees who are taking a prescription or over-the-counter medication that may impair their ability to perform their duties safely and effectively should provide written notice from their physician or pharmacist with respect to the effects of such substances.

F. REFUSAL TO SUBMIT TO A REQUIRED TEST

An employee may not refuse to submit to a post-accident, random, or reasonable suspicion alcohol or drug test as directed by this policy.

G. POSITIVE DRUG TEST

An employee may not report for duty or remain on duty requiring the performance of duties covered under this policy if the employee tests positive for drugs or alcohol.

H. TAMPERING WITH A REQUIRED TEST

An employee may not tamper with, adulterate, alter, substitute or otherwise obstruct any testing process required under this policy.

I. POSSESSION, TRANSFER OR SALE

No employee may possess, transfer or sell drugs or alcohol while in any position covered by this policy.

VI. TESTING

A. Pre-employment Drug Testing

All individuals who are covered by this policy must pass a drug test as a post-offer condition of employment.

B. Reasonable Suspicion Testing

Employees subject to this policy shall submit to a drug and/or alcohol test when the City reasonably suspects that this policy (except the prohibitions against possession, transfer or sale of alcohol) may have been or is presently being violated. A referral for testing will be based on contemporaneous, articulable observations. Such referrals will be made by supervisory personnel who have received training concerning the signs and symptoms of drug and alcohol use.

Alcohol testing for reasonable suspicion may only be conducted just before, during or after an employee operates a commercial vehicle. If removed from duty based on reasonable suspicion of alcohol use and an alcohol test is not administered within eight hours, the employee will not be allowed to perform or continue to perform covered functions until:

- 1) an alcohol test is administered and the driver's breath alcohol concentration measures less than 0.02; or

- 2) 24 hours have elapsed following the determination that there is reasonable suspicion to believe that the employee has violated this policy concerning the use of alcohol.

C. Post-Accident Testing

Following an accident (as defined above) involving a commercial vehicle, the driver is required to submit to alcohol and drug tests when the driver receives a citation under state or local law for a moving traffic violation, or where a fatality occurs as a result of the accident. Testing should occur as soon as possible, but may not exceed eight hours after the accident for alcohol testing and 32 hours after the accident for drug testing.

A driver who is subject to post-accident testing must remain readily available for such testing and may not take any action to interfere with testing or the results of testing. Drivers who do not comply with post-accident testing requirements will be considered to have refused to submit to testing and will be subject to sanctions for refusal to test as provided in this policy.

D. Random Testing

Employees covered by this policy will be subject to random, unannounced alcohol and drug testing.

E. Re-tests

Employees who test positive for drugs may request a second test of the remaining portion of the split sample within 72 hours of notification of a positive test result by the Medical Review Officer.

VII. REFUSAL TO TAKE AN ALCOHOL OR DRUG TEST

No employee shall refuse to submit to an alcohol or drug test as directed under this policy. A refusal to submit shall include, but is not limited to:

- a. a failure to provide adequate breath for testing without a valid medical explanation after the employee has received notice of the requirement for breath testing in accordance with the procedures manual;
- b. failure to provide adequate urine for drug testing without a valid medical explanation after the employee has received notice of the requirement for urine testing in accordance with the procedures manual;
- c. engaging in conduct that obstructs the testing process.

Refusal to submit to a test shall be considered the same as a positive test result.

VIII. SECURING INFORMATION FROM PREVIOUS EMPLOYERS

If a person is to be hired into a position subject to this policy and during the previous two years has worked as a driver of a commercial vehicle, that person must authorize a request of all employers of the driver within the past two years to release information on the following:

- a. Positive alcohol or drug tests
- b. Refusal to be tested

This information must be obtained before the person is employed by the City. However, if the information has not arrived by the anticipated start date, and if the person has passed the pre-employment drug test, the person may be hired and the requested information must be obtained from the previous employers within 14 calendar days of the date of hire. If the information has not been received within the 14 calendar days, the person will not be permitted to drive commercial vehicles until the information has arrived. If the information obtained from previous employer indicates either a positive test or that a refusal to be tested occurred within the past two years, that person will not be permitted to drive commercial vehicles unless subsequent information indicates that an evaluation by a Substance Abuse Professional was made and return to duty testing was administered.

IX. CONFIDENTIALITY AND RECORD RETENTION

All records related to drug and alcohol testing will be maintained in a secure location with controlled access. These records will be kept separate from records pertaining to all other employees.

X. CONSEQUENCES OF ENGAGING IN PROHIBITED CONDUCT OR POSITIVE DRUG OR ALCOHOL TESTS

A. Discipline

The City maintains a zero tolerance, immediate termination policy towards positive drug and alcohol test results for employees covered by this policy.

An employee will be subject to the zero tolerance termination action if:

- a. the employee tests positive for a drug or drugs;
- b. results from an alcohol test indicate a blood alcohol level of 0.04 or greater; and/or,
- c. the employee has engaged in prohibited conduct as outlined in Section V.

All employees regardless of disciplinary action taken will be advised of resources available to the employee in evaluating or resolving problems associated with drug use or alcohol misuse.

B. Alcohol Concentration of 0.02 but less than 0.04

Employees having a breath alcohol concentration of at least 0.02 but less than 0.04, shall be removed from duty requiring the driving of a commercial vehicle for at least 24 hours. In addition, appropriate discipline measures will take place.

XI. EMPLOYEE ASSISTANCE PROGRAM/VOLUNTARY REFERRAL

The City supports employees who volunteer for treatment of alcohol or drug abuse. Employees are encouraged to seek treatment voluntarily. Any employee who comes forth and notifies the City of alcohol or drug abuse problems will be given the assistance extended to employees with any other illness. Any such program, however, may not interfere with the tests required by these rules. For example, a driver may not identify himself/herself as unfit to drive after having been notified of a random or reasonable suspicion test and expect to avoid the consequences for a positive test or a refusal to test. In addition, voluntarily seeking assistance does not excuse any failure to comply with all of the provisions of this policy or other policies of the city.

Sick leave, vacation leave or leave of absence without pay may be granted for treatment and rehabilitation as in other illnesses. Insurance coverage for treatment will be provided to the extent of individual coverage. Confidentiality of information will be maintained as much as possible at all times.