

**CITY OF ILWACO
ORDINANCE NO. 838**

AN ORDINANCE OF THE CITY OF ILWACO, WASHINGTON REVISING DRUG AND ALCOHOL TESTING POLICY FOR EMPLOYEES WITH A COMMERCIAL DRIVERS' LICENSE.

WHEREAS, the State of Washington, and federal law requires all individuals with a Commercial Drivers' License to be in a program for random drug and alcohol testing; and

WHEREAS, the City of Ilwaco has employees with Commercial Drivers' Licenses; and

WHEREAS, the City of Ilwaco contracts with the Association of Washington Cities (AWC) to manage the random drug and alcohol testing program, and AWC has revised its policies, and

WHEREAS, the Council has determined that it is in the best interest of the City to update its policy as currently recommended by AWC.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ILWACO, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Ordinance 719 is repealed in its entirety.

Section 2. The City of Ilwaco hereby adopts the Drug and Alcohol Policy for Use with DOT regulated Employees attached hereto as Attachment A.

Section 3. If any section, sentence, or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 4. This Ordinance or summary thereof consisting of the title shall be published in the official newspaper of the City.

Section 5. This Ordinance shall be in full force and effect five (5) days after publication of the summary consisting of the title.

**PASSED BY THE CITY COUNCIL OF THE CITY OF ILWACO, AND SIGNED IN
AUTHENTICATION OF ITS PASSAGE THIS 8th DAY OF DECEMBER, 2014**

Mike Cassinelli, Mayor

ATTEST:

Ariel Smith, Treasurer

VOTE	Jensen	Karnofski	Marshall	Chambreau	Forner	Cassinelli
Ayes			x	x	x	
Nays	x	x				
Abstentions						
Absent						

PUBLISHED: December 17th, 2014

EFFECTIVE: December 22, 2014

ATTACHMENT A
CITY OF ILWACO
Drug and Alcohol Policy
For Use with DOT-Regulated Employees

I. PURPOSE

The City of Ilwaco is dedicated to providing quality, dependable and economical municipal services to the residents of Ilwaco. Part of our mission is to ensure that the services are delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, The City of Ilwaco declares that the unlawful manufacture, distribution, dispensation, possession or use of controlled substances or misuse of alcohol is prohibited for all employees.

Additionally, Federal regulations require that employers conduct alcohol and controlled substances testing of drivers who operate commercial motor vehicles, mechanics, and supervisors with a commercial driver's license who fill in. For the purpose of this policy, the employee will be referred to as "Driver" and the employer will be referred to as "Employer." This policy provides guidelines for circumstances under which the Federal Motor Carrier Safety Administration (FMCSA) and the United States Department of Transportation (DOT) mandated testing must be conducted. Of course, all the details of every possible situation cannot be anticipated, so the Employer reserves the right to determine the appropriate application of this policy and general employment policies to any particular case, as well as the right to waive employee payment requirements in any particular case.

This policy sets forth the City of Ilwaco alcohol and drug testing program and the testing and reporting requirements as required by those regulations.

II. APPLICABILITY

A. Subject Employees. This drug and alcohol testing policy applies to all safety-sensitive employees (full or part time) 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. Employees covered by this policy have been provided a copy of these FMCSA/DOT provisions and by signature verify that they have read and understand the policy. **Drivers should note that in addition to the required DOT regulations, they are also subject to the Employer's drug and alcohol policy and all other policies and procedures applicable to all employees.**

B. Questions. The Employer expects all Drivers to work drug and alcohol free at all times. If you have any questions about this policy, contact the City of Ilwaco Treasurer, at 360-642-3145.

C. Application of Policy Revision. This policy is a revision of City of Ilwaco Ordinance 719, and the terms stated shall apply to any employee currently undergoing treatment as well as future testing mandated by this policy, and any pre-treatment evaluation costs previously paid by a current employee undergoing treatment that are covered by this policy shall be reimbursed.

III. ADMITTED ALCOHOL AND DRUG PROBLEMS

A. Seeking Help. In some cases alcohol and drug abuse can be a result of chemical dependency that can be successfully treated with professional help. Drivers who are having problems with alcohol or drug use are encouraged to seek voluntary counseling and treatment. It is the Driver's responsibility to seek help when needed, and to do so before substance abuse causes problems on the job or results in disciplinary action.

B. Admission of Use. Drivers who admit to alcohol misuse or controlled substances use are not subject to the referral, evaluation, and treatment requirements of 49 CFR Part 382 and 40, provided that:

1. The admission is in accordance with the Employer's written established voluntary self-identification policy;
2. The Driver does not self-identify in order to avoid testing;
3. The Driver makes the admission of alcohol misuse or controlled substances use before performing a safety-sensitive function;
4. The Driver does not perform a safety-sensitive function until the Employer is satisfied that the Driver has successfully completed education or treatment requirements in accordance with the self-identification program guidelines.

C. Employer Action. Under normal circumstances, the Employer will:

1. Not take adverse action against a Driver making a voluntary admission of alcohol misuse or controlled substances use provided that the admission occurs before the Driver has been subject to disciplinary action or the use/misuse has affected job performance;
2. Allow the Driver sufficient opportunity to seek an evaluation, education or treatment to establish control over the Driver's drug or alcohol problem;

3. Permit the Driver to return to safety sensitive duties only upon successful completion of an educational or treatment program, as determined by a substance abuse professional.

IV. DEFINITIONS

"Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

"Alcohol Concentration (or Content), BAC" means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under 49 CFR Part 382.

"Alcohol Use" means the drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol.

"Commercial Motor-Vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

1. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
2. Has a gross vehicle weight rating of 26,001 or more pounds; or
3. Is designed to transport 16 or more passengers, including the Driver; or
4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR Part 172, subpart F).

"Controlled Substances" mean those substances identified in 49 CFR Part 40.85, as amended: marijuana, cocaine, opiates, amphetamines, and phencyclidine.

"DOT Agency" means an agency (or "operating administration") of the United States Department of Transportation administering regulations requiring alcohol and/or drug testing (14 CFR parts 61, 63, 65, 121, and 135; 49 CFR parts 199, 219, 382, and 655), in accordance with 49 CFR Part 40.

"Driver" means any person who operates a commercial motor vehicle. This includes, but is not limited to: full-time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer.

"Drug" has the meaning of any controlled substances, prescription, or over-the-counter medication.

"EBT (or evidential breath testing device)" means an EBT approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices" (CPL), and identified on the CPL as conforming with the model specifications available from the National Highway Traffic Safety Administration, Office of Alcohol and State Programs.

"Employer" means an entity employing one or more employees (including an individual who is self-employed) that is subject to DOT agency regulations requiring compliance with 49 CFR Part 382. The term refers to the entity responsible for overall implementation of DOT drug and alcohol program requirements, as well as those individuals employed by the entity who take personnel actions resulting from violations of 49 CFR Part 382 and any applicable DOT agency regulations. Service agents are not employers.

"Licensed Medical Practitioner" means a person who is licensed, certified, and/or registered, in accordance with applicable Federal, State, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.

"Medical Review Officer (MRO)" means a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

"Performing (a safety-sensitive function)" means a Driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

"Refuse to Submit (to an alcohol or controlled substances test)" means that a covered employee:

1. Fails to show up for any test (except a pre-employment test) within a reasonable time after being directed to do so by the Employer. This includes the failure of an employee to appear for a test when called by a Consortium/Third Party Administrator);
2. Fails to remain at the testing site until the testing process is complete; provided, that an applicant who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused a test. The testing process commences once the applicant has been provided the specimen collection cup.

3. Fails to provide a urine specimen for any drug test or breath or saliva sample for an alcohol test required by 49 CFR Part 382, if the employee leaves after the testing process has commenced;
4. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the provision of a specimen;
5. Fails to provide a sufficient amount of urine, breath or saliva when directed, unless it has been determined, through a required medical evaluation, that there was an adequate medical explanation for the failure to provide.
6. Fails or declines to take a second test the Employer has directed following a negative dilute result as required by 40.197(b);
7. Fails to undergo an additional medical examination, as directed by the MRO as part of the verification process, or as directed by the Designated Employer Representative (DER) concerning the evaluation as part of the "shy bladder" procedures in 49 CFR Part 40, subpart I; or fails to undergo a medical examination or evaluation as directed by the employer as part of the insufficient breath procedures outlined in 40.265(c).
8. Fails to cooperate (e.g. refuses to empty pockets when directed by the collector, behaves in a confrontational way that disrupts the collection process, fails to wash hands after being directed to do so by the collector) or otherwise interferes with any part of the testing process.
9. Fails to sign the certification at Step 2 of the alcohol testing form (ATF).
10. Is reported by the MRO as having a verified adulterated or substituted test result.
11. For an observed collection, fails to follow the observer's instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if there is any type of prosthetic or other device that could be used to interfere with the collection process.
12. Possesses or wears a prosthetic or other device that could be used to interfere with the collection process.
13. Admits to the collector or MRO to having adulterated or substituted the specimen.

"Safety Sensitive Function" means all time from the time a Driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

1. All time at an Employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the Driver has been relieved from duty by the Employer;

2. All time inspecting equipment as required by 49 CFR 392.7 and 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
3. All time spent at the driving controls of a commercial motor vehicle in operation;
4. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of 49 CFR 393.76);
5. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
6. All time spent repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

“Substance Abuse Professional” (SAP) means 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 or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug-related disorders.

V. PROHIBITED CONDUCT

A. Prohibited. The following is considered prohibited conduct under this policy:

1. No Driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater.
2. No Driver shall use alcohol while performing safety-sensitive functions.
3. No Driver shall perform safety-sensitive functions within four hours after using alcohol.
4. No Driver required to take a post-accident alcohol test under 49 CFR 382.303 shall use alcohol for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.
5. No Driver shall refuse to submit to a post-accident, random, reasonable suspicion, or follow-up controlled substance and/or alcohol test required by 49 CFR Part 382.

6. No Driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the Driver uses any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner, who has advised the Driver that the substance will not adversely affect the Driver's ability to safely operate a commercial motor vehicle.
7. No Driver shall report for duty, remain on duty or perform a safety-sensitive function if the Driver tests positive for controlled substances.

B. Employer Duty. The Employer shall not permit a Driver to continue to perform safety sensitive functions if the Employer has actual knowledge of a Driver violating any of the aforementioned prohibitions.

C. Employer Knowledge. The Employer can obtain actual knowledge based on the employer's direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances, or an employee's admission of alcohol or controlled substances use, except as discussed in the Employer's voluntary self-identification program.

VI. OTHER RELATED ALCOHOL CONDUCT

A Driver tested under the requirements of this policy who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall be removed immediately from performing safety-sensitive functions until the start of the Driver's next regularly scheduled duty period, but not less than 24 hours following the test administration. Depending on the circumstances, an employee who is removed from service due to an alcohol concentration of 0.02 or greater but less than 0.04 may be subject to discipline.

VII. CONTROLLED SUBSTANCES AND ALCOHOL TESTING

A. Time of Testing. The Driver may be tested for controlled substances at any time during his/her work day, except for pre-employment testing, and alcohol testing will be conducted just before, during or after performing safety-sensitive functions. Submission to the controlled substance and alcohol testing described in this policy is a condition of employment with the Employer for those Drivers covered by DOT and FMCSA regulations. A refusal to submit (as described above) will constitute a violation of this policy and be grounds for termination of employment.

B. Pre-Employment Testing. Drivers applying for employment with Employer will be tested for controlled substances unless:

1. The applicant participated in a DOT testing program within the past 30 days *and*:

- a. Has passed a DOT controlled substance test within the past six (6) months;
or
 - b. Was subject to DOT random controlled substance testing program for the previous 12 months; *and*
 - c. Has not violated any prohibitions of 49 CFR Part 382 within the past six (6) months.
2. A Driver/applicant who tests positive on a pre-employment test will not be hired, however, may be eligible to reapply for employment with the Employer after six months from the date of the positive test. In addition, an applicant who tested positive on any DOT mandated pre-employment drug test after August 1, 2001, must provide documentation of his/her successful completion of DOT return-to-duty requirements (i.e. an evaluation by a substance abuse professional, education and/or treatment, and a negative DOT pre-employment test, all of which meet the requirements of 49 CFR Part 40). The Driver/applicant will be responsible to pay for the pre-treatment evaluation, education and/or treatment, and the subsequent pre-employment test.

C. Post-Accident: As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce,

- 1. Each surviving Driver shall be tested for controlled substances and alcohol if:
 - a. The Driver was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life (fatality); or
 - b. The Driver received a citation for a moving violation and the accident involved bodily injury to any person who, as a result of the accident, immediately receives medical treatment away from the scene of the accident; or
 - c. The Driver received a citation for a moving violation and the accident involved 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.
- 2. A Driver may not consume alcohol for eight (8) hours following an accident that requires the DOT alcohol test. The alcohol test must be completed within two (2) hours of the accident; if not, the Driver must advise the Employer the reasons for the delay, and shall continue to have the test conducted up to eight (8) hours following the accident. After eight (8) hours the attempt to test will be ceased, and the Driver must again provide the reasons for the test not being administered.

3. A controlled substances test shall be administered as soon as practicable up to 32 hours following the accident. After 32 hours the attempt to test will be ceased, and the Driver must provide the reasons for the test not being administered promptly. A Driver must remain readily available for testing, or may be deemed by the Employer to have refused to submit to testing.
4. Nothing in this policy should be construed to require the delay of necessary medical attention for the injured.

D. Random. The Employer is using a consortium/third party administrator to facilitate the random selection of Drivers and notification to the Employer of the Driver(s) selected for testing. The consortium/third party administrator is:

A WorkSAFE Service, Inc.
1696 Capitol St NE
Salem OR 97301
(503) 391-9363

Drivers will be subject to random alcohol and controlled substance testing under the following program:

1. Random selection of Drivers will be made by a scientifically valid method using a computer-based random number generator that is matched with Drivers' social security numbers.
2. Each Driver shall have an equal chance of being drawn each time selections are made.
3. Selections for testing are unannounced and reasonably spread throughout the calendar year.
4. Random selections are made to ensure testing for controlled substances is conducted at not less than the minimum annual 50% rate and alcohol is conducted at not less than the minimum annual 10% rate, or the rates as established by the FMCSA.
5. A Driver shall only be tested for alcohol just before, during, or after performing safety-sensitive functions; however, he/she may be tested for controlled substances any time while performing work for the Employer.
6. Once a Driver is notified of selection for random alcohol and/or controlled substances testing, he/she shall proceed to the test site immediately.

E. Reasonable Suspicion. Drivers will be tested for alcohol and/or controlled substances whenever the Employer has reasonable suspicion that the individual has violated any of the drug and alcohol policy (for example, if the Employer observes physical signs of drug or

alcohol use, such as slurred speech, unsteady gait, dilated pupils, odor of alcohol or controlled substances, etc.; or if observed, unusual behavior suggesting the use of controlled substances or alcohol in violation of the Employer policy). Drivers required to be tested under reasonable suspicion testing will be removed from performing safety-sensitive functions pending the outcome of the test result(s) and be transported to the testing facility by the Employer.

Reasonable suspicion drug testing is authorized when the supervisor's observation of the Driver's behavior occurs any time during the workday. Reasonable suspicion alcohol testing is authorized only if the supervisor's observation of the Driver's behavior has been made during, just preceding, or just after performing any safety-sensitive function.

The alcohol test must be completed within two (2) hours of the observation; if not, the Employer must document the reasons for the delay, and shall continue to have the test conducted up to eight (8) hours following the observation. After eight (8) hours, the attempt to test will cease, and the Employer must again provide the reasons for the test not being administered.

If an alcohol test is not completed within the two (2) or eight (8) hour time periods, the Employer shall prepare and maintain on file a record stating the reasons the test was not administered within the appropriate time frames.

The Employer shall not permit a Driver to report for duty, remain on duty, perform, or continue to perform any safety-sensitive functions while the Driver is impaired by alcohol, as shown by the behavioral, speech, or performance indicators of alcohol misuse, until:

1. An alcohol test is administered and the Driver's alcohol concentration measures less than 0.02 percent; or
2. The start of the Driver's next regularly-scheduled duty period, but not less than twenty four (24) hours following the supervisor's determination that reasonable suspicion exists.

Supervisors and any Employer representative that may be expected to serve in a supervisory capacity, and who may be required to make a reasonable suspicion determination, must have received at least 60 minutes of training on the indications of probable drug use and an additional 60 minutes training on the indicators of probable alcohol misuse. Only those individuals who have received this training are qualified to make these decisions.

F. Return To Duty. No Driver found to be in violation of the Employer drug and alcohol policy will be permitted to return to duty involving safety-sensitive functions until the Driver has a verified negative controlled substances test and/or an alcohol test with a result less than 0.02 alcohol concentration. All controlled substances return-to-duty tests will be conducted by same-gender direct observation. Refusing to permit an observed collection will constitute a refusal to test with the same consequences as testing positive.

G. Follow-up. Any Driver in need of assistance in resolving problems associated with alcohol misuse and/or controlled substances use as identified through the evaluation by the

Substance Abuse Professional will, if still employed, be required to enter into a Last Chance Agreement and to submit to unannounced follow-up testing for controlled substances and/or alcohol as directed by the Substance Abuse Professional. The Employer may perform follow-up testing for five years. All controlled substances return-to-duty tests will be conducted by same-gender direct observation. Refusing to permit an observed collection will constitute a refusal to test with the same consequences as testing positive.

VIII. FAILURE TO COOPERATE

Employees who are subject to this policy are expected to comply fully with any required testing. Failure to do so (including, for example, refusing to sign consent or refusing to test, obstructing the testing process, failing to make themselves available for a required test, failing to provide an adequate sample for testing, attempting to adulterate or substitute a specimen, or in any way tampering with a required test, failure to empty pockets or wash hands as requested by collection site personnel, refusing to permit an observed collection, possessing or wearing a prosthetic or other device that could be used to interfere with the collection process) will cause the driver to be immediately relieved from performing safety-sensitive functions, and will also be considered a violation of Employer policy that will subject the employee to discipline, up to and including termination of employment. The Employer also reserves the right to involve law enforcement officials for any conduct that it believes might be in violation of state or federal law.

IX. TESTING PROCEDURES

A. Urine Specimen Collection. Specimen collections will be conducted in accordance with the procedures of 49 CFR Part 40, as amended. The collection procedures are designed to ensure the security and integrity of the specimen provided by each covered employee, and those procedures will strictly follow federal chain-of-custody guidelines. Moreover, every reasonable effort will be made to preserve the individual's privacy as much as possible consistent with ensuring an accurate result. Covered employees will be required to empty their pockets before providing the drug test specimen.

Under normal circumstances, the applicant or covered employee will be afforded compete privacy in the restroom for providing the urine sample. Certain situations do require the urine sample be provided under same-gender direct observation. Those situations include:

1. The temperature on the original specimen was out of range; or
2. The original specimen appeared to have been tampered with (i.e. unusual color, odor, foam, etc.); or
3. The laboratory reported to the MRO that a specimen is invalid, and the MRO reported to the Employer there was not an adequate medical explanation for the result; or

4. The MRO reported to the Employer that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed; or
5. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5mg/dL, and the MRO reported the specimen to the Employer as negative-dilute and a second collection must take place under direct observation; or
6. All return-to-duty or follow-up drug tests.

When that occurs, the donor will be required to follow the observer's instructions to raise their clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if there is any type of prosthetic or other device that could be used to interfere with the collection process.

Refusing to permit an observed collection, or possessing or wearing a prosthetic or other device that could be used to interfere with the collection process, are considered a refusal to test and will constitute a verified positive drug test result.

B. Laboratory analysis. As required by 49 CFR Part 40, only a laboratory certified by the Department of Health and Human Services (DHHS) will be retained by the Employer to perform the analysis of the urine specimen for controlled substances. The initial screening test will be performed by immunoassay and will test for substances and at cutoff levels required by 49 CFR Part 40, as amended. All specimens identified as positive on the initial screening test will be confirmed using gas chromatography/mass spectrometry techniques at cutoff levels required by 49 CFR Part 40, as amended.

C. Breath alcohol. Testing will be conducted by a qualified technician according to 49 CFR Part 40 procedures. Either a breath or saliva test by an EBT device will be used for the testing.

X. MEDICAL REVIEW

All controlled substances test results will be reviewed by a Medical Review Officer (MRO) before results are reported to the Employer. The MRO will attempt to contact the driver to discuss the test results before reporting positive results to the Employer.

The Employer Medical Review Officer is:

Dr. C. Kirby Griffin, MD
9370 SW Greenburg Rd., Suite 200
Portland OR 97223
(877) 977-3225

XI. NOTIFICATION OF RESULTS

The Employer will notify the affected Driver of any controlled substances test that is reported as positive by the MRO. The Employer will notify Driver-applicants of the results of pre-employment controlled substances testing if the applicant requests that information in writing within 60 days after the Employer notifies the applicant that he/she has or has not been hired.

XII. REANALYSIS OF ORIGINAL SPECIMAN

Within 72 hours of the MRO notifying the driver of a verified positive controlled substances test, an adulterated or substituted specimen, the Driver may request the reanalysis of the original specimen. Only the MRO may authorize such a reanalysis, and such a reanalysis may take place only at laboratories certified by the Department of Health and Human Services (DHHS). If the reanalysis fails to reconfirm the presence of the drug or drug metabolite, the MRO shall cancel the test. All applicants/drivers have a right to request the reanalysis of the original specimen, for which the applicant/driver will be responsible to pay.

XIII. CONFIDENTIALITY

Records required under this policy, including test results, will be maintained in a secure location with controlled access. Each Driver shall, upon written request, be entitled to receive copies of his/her own records, and to have copies of his/her records made available to any subsequent employer. Information may also be disclosed to the relevant state or federal agencies, or in connection with judicial, administrative or related proceedings (e.g., grievances and arbitration) initiated by or on behalf of the Driver.

XIV. EVALUATION AND REFERRAL

A. Treatment. DOT regulations require that any Driver who violates the alcohol and controlled substances rules of 49 CFR Part 382 be advised of available evaluation resources and be evaluated by a Substance Abuse Professional. The Driver must complete an appropriate education and/or treatment program before being eligible to return to safety sensitive duty.

B. Test Required. Before returning to performing safety-sensitive functions for any DOT employer, the Driver must be tested for controlled substances with a verified negative controlled substances test result and/or alcohol with a test result less than 0.02 alcohol concentration. The Driver will be subject to follow-up testing of at least six tests in the first 12 months of returning to duty, and follow-up testing may continue for five years.

XV. INFORMATION ON EFFECTS AND SIGNS OF ALCOHOL AND CONTROLLED SUBSTANCE USE

DOT regulations require employers to furnish information regarding the effects of alcohol and controlled substance use, as well as the signs and symptoms of such use. Included in an appendix to this policy are fact sheets regarding alcohol and various controlled substances. Any employee who suspects a co-worker has an alcohol or drug problem may refer the co-

worker to contact information for the Substance Abuse Professional identified in this policy, the City's Employee Assistance Program, if any, or to management.

XVI. CONSEQUENCES

A. Employment. Under normal circumstances, employees violating this policy or federal regulations will be suspended from performing any safety-sensitive functions with a commercial motor vehicle as defined by this policy and will be subject to disciplinary action up to and including termination of employment. Under some circumstances, however, the Employer may agree to return an employee to performing these functions following treatment and rehabilitation. When, at the Employer's discretion, an employee is returned to work, the Driver will be required to enter into a Last Chance Agreement and to submit to unannounced follow-up testing for controlled substances and/or alcohol as directed by the Substance Abuse Professional in order to continue to perform safety-sensitive functions and operate a commercial motor vehicle requiring a CDL.

B. Cost. Under normal circumstances, the employee violating this policy must pay the cost of any pre-treatment evaluation and treatment and the return-to-duty testing. The Employer medical plan, if available to the employee, may cover a portion of the associated costs. Uncovered costs of treatment are the employee's responsibility to pay. However, if the violation of policy results from a voluntary employee admission of chemical dependency, the Employer will pay the cost of any pre-treatment evaluation and return-to-duty testing.

Certificate of Receipt

I hereby certify that on the date shown below, I received and read a copy of the City of Ilwaco Drug and Alcohol Policy for Use With FMCSA/DOT-Regulated Employees, consisting of 13 pages including this Certificate of Receipt, and a copy of drug and alcohol awareness training materials. I understand and agree to comply with this policy, including any required alcohol or controlled substance testing.

Employee – print name

Employee – signature

Dated: _____

(Original to be kept in employee personnel file and employee to receive duplicate copy.)