

City of Iowa City

Drug and Alcohol Policy

Effective as of December 3, 2019

Adopted by: City Council Resolution No. 19-280

Date Adopted: 12/03/19

Last Revised: November 2019

Table of Contents

1.	Purpose of Policy.....	1
2.	Covered Employees.....	1
3.	Prohibited Behavior	2
4.	Consequences for Violations.....	3
5.	Circumstances for Testing.....	5
6.	Testing Procedures.....	9
7.	Test Refusals.....	9
8.	Prescription Drug Use	10
9.	FMCSA Clearinghouse	10
10.	Contact Person	11
	Attachment A: Covered Positions	12

I. Purpose of Policy

This policy complies with 49 CFR Part 655, as amended, 49 CFR Part 382, as amended, and 49 CFR Part 40, as amended. Copies of Parts 655, 382, and 40 can be found on the Internet at the Department of Transportation (DOT) Office of Drug and Alcohol Policy and Compliance website <http://www.transportation.gov/odapc>.

All covered employees are required to submit to drug and alcohol tests as a condition of employment in accordance with these regulations.

Portions of this policy are not DOT-mandated, but reflect the City of Iowa City’s policy. These additional provisions are identified by **bold text**.

In addition, DOT has published 49 CFR Part 32, implementing the Drug-Free Workplace Act of 1988, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA.

All City of Iowa City employees are subject to the provisions of the Drug-Free Workplace Act of 1988.

The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the covered workplace. An employee who is convicted of any criminal drug statute for a violation occurring in the workplace shall notify Human Resources no later than five days after such conviction.

2. Covered Employees

This policy applies to every person whose position requires the possession of a commercial driver’s license (CDL); every employee performing a “safety-sensitive function” as defined below, and any person applying for such positions.

Under the Federal Commercial Motor Vehicle Safety Act (“FMCSA”)(Part 382), you are a covered employee if you perform any of the following safety-sensitive functions:

- Driving a commercial motor vehicle which requires the driver to have a CDL
- Waiting to be dispatched to operate a commercial motor vehicle
- Inspecting, servicing, or conditioning any commercial motor vehicle
- Performing all other functions in or upon a commercial motor vehicle (except resting in a sleeper berth)
- Loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloading, remaining in readiness to operate the vehicle, or giving or receiving receipts for shipments being loaded or unloaded
- Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle

Under Federal Transit Administration (“FTA”) requirements (Part 655), you are a covered employee if you perform any of the following safety-sensitive functions:

- Operating a revenue service vehicle, in or out of revenue service
- Operating a non-revenue vehicle requiring a commercial driver’s license
- Controlling movement or dispatch of a revenue service vehicle
- Maintaining (including repairs, overhaul and rebuilding) of a revenue service vehicle or equipment used in revenue service
- Carrying a firearm for security purposes

See Attachment A for a list of covered positions by job title.

3. Prohibited Behavior

Use of illegal drugs is prohibited at all times. All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body at or above the minimum thresholds defined in Part 40. Prohibited drugs include:

- marijuana
- cocaine
- phencyclidine (PCP)
- opioids
- amphetamines

All covered employees are prohibited from performing or continuing to perform safety-sensitive functions while having an alcohol concentration of 0.04 or greater.

All covered employees are prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. If the on-call employee claims the ability to perform his or her safety-sensitive function, he or she must take an alcohol test with a result of less than 0.02 prior to performance.

All covered employees are prohibited from consuming alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

All covered employees are prohibited from consuming alcohol for eight (8) hours following involvement in an accident or until he or she submits to the post-accident drug and alcohol test, whichever occurs first.

4. Consequences for Violations

FTA Consequences

Following a positive drug or alcohol test result (BAC at or above 0.04) or test refusal, the employee will be immediately removed from safety-sensitive duty and referred to a Substance Abuse Professional (“SAP”).

Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties for at least eight hours unless a retest results in the employee’s alcohol concentration being less than 0.02. **The employee will be required to use applicable leave accruals for time missed, as further outlined below.**

Any employee who is unable to perform their assigned duties under this section will receive disciplinary action in the form of a written warning for the first occurrence. This warning will be considered a serious infraction. Following the employee’s return to work an employee who cannot perform their assigned duties a second time because they have an alcohol concentration of .02 or greater or they test positive for drugs, will be terminated.

Hourly or seasonal employees who have a reported positive drug test or a reported alcohol concentration of .02 or greater will be subject to immediate termination of employment.

FMCSA Consequences

Following a positive drug or alcohol test result (BAC at or above 0.04) or test refusal, the employee will be immediately removed from safety-sensitive duty and referred to a Substance Abuse Professional (SAP).

Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties until the start of the employee’s next regularly scheduled duty period, but not less than 24 hours following administration of the test. **The employee will be required to use applicable leave accruals for time missed, as further outlined below.**

Any employee who is unable to perform their assigned duties under this section will receive disciplinary action in the form of a written warning for the first occurrence. This warning will be considered a serious infraction. Following the employee’s return to work, an employee who cannot perform their assigned duties a second time because they have an alcohol concentration of .02 or greater or they test positive for drugs, will be terminated.

Hourly or seasonal employees who have a reported positive drug test or a reported alcohol concentration of .02 or greater will be subject to immediate termination of employment.

Treatment/Discipline

Any employee who tests positive for drugs or alcohol (BAC at or above 0.04) or refuses to test will be referred to a Substance Abuse Professional (SAP) and subject to the following requirements:

City of Iowa City Drug and Alcohol Policy – FTA and FMCSA

- Removed from safety-sensitive duties.
- Evaluated by a SAP to determine what treatment is necessary and will follow all recommendations of the SAP. If the levels of drugs do not decrease in a timely manner, as determined by the SAP, the SAP will report this to the Designated Employer Representative (DER) and the employee will be subject to disciplinary action.
- Subject to return to duty drug and alcohol tests. The SAP will notify the City when the employee is ready to take a return to duty test. For drugs, the employee must have a negative test result before being allowed to perform safety-sensitive duties. For alcohol, the employee must have a test result of less than .02 before being allowed to perform safety-sensitive duties. **A positive result on a return to duty test will be considered a second positive test and subject to disciplinary action including termination of employment.**

Employees completing treatment will be:

- Evaluated by a SAP to determine that the employee has successfully completed the treatment program.
- Subject to unannounced follow-up drug tests under the following guidelines:
 - The number and frequency of follow up tests will be determined by a SAP and will consist of a minimum of six tests in the first twelve months;
 - The City will direct the employee to undergo follow-up drug or alcohol tests as determined by the SAP;
 - The SAP may require testing beyond the first twelve months, however, follow-up testing will not exceed 60 months from the date of the employee's return to duty; and
 - The SAP may end testing after the first six tests if they determine that such tests are no longer necessary.

Employee testing, evaluation, and treatment cost requirements:

- **Evaluation and rehabilitation must be performed by a SAP. The cost of evaluation by the SAP is the responsibility of the employee. The cost of any required treatment is also the responsibility of the employee.**
- **The cost of drug and alcohol tests will be paid by the City for pre-employment, post-accident, random and reasonable suspicion tests. If an employee requires return to duty or follow up testing, such costs shall be paid by the employee.**
- **Sick leave or other applicable accruals may be used for work time spent in required counseling sessions if satisfactory documentation of attendance is provided. Sick leave may not be used for time away from work for a SAP evaluation or while an employee is waiting to take a return to duty test.**

Employee work status:

Except for cases involving injury or damage to property, the first time that a positive drug test is reported by the MRO or an employee tests positive for alcohol by having an alcohol concentration of .04 or greater, the employee may not return to work until they have completed the treatment program recommended by the SAP and have successfully passed a return to duty drug or alcohol test. During this period of time the employee will be required to use applicable accruals. If an

employee runs out of applicable accruals before they are released to return to work they may request an unpaid leave of absence (subject to terms and conditions of the City Personnel Policies, applicable collective bargaining agreement, or applicable City policy) for a limited time until the employee has successfully completed the recommended treatment program and passed a return to work test. In either case, an employee who cannot perform assigned duties will receive disciplinary action in the form of a written warning for inability to perform their assigned duties. This will be considered a serious infraction.

An employee fails to contact/meet with a SAP, fails to communicate with the employer’s representative as directed, continues to use a controlled substance while under the care of a SAP, or fails to comply with the recommended treatment will be subject to discipline up to and including termination. It is expected that the amount of a controlled substance will decrease on subsequent tests given under the direction of the SAP. Following the employee’s return to work an employee who cannot perform their assigned duties a second time because they have an alcohol concentration of .02 or greater or they test positive for drugs, will be terminated.

If an employee is tested for drugs as a result of reasonable suspicion, the employee will be charged with use of applicable leave accruals for this time and will be subject to the guidelines and discipline described above. If the test results are negative, the employee will be paid for time spent awaiting the results of the test and no leave accruals will be used.

Violations of this policy resulting in personal injury or injury to another individual or violations resulting in damage to public or private property may result in termination of employment on the first offense.

5. Circumstances for Testing

Pre-Employment Testing

A negative pre-employment drug test result is required before an employee can first perform safety-sensitive functions. If a pre-employment test is canceled, the individual will be required to undergo another test and successfully pass with a verified negative result before performing safety-sensitive functions.

If a covered employee has not performed a safety-sensitive function for 90 or more consecutive calendar days, and has not been in the random testing pool during that time, the employee must take and pass a pre-employment test before he or she can return to a safety-sensitive function.

A covered employee or applicant who has previously failed or refused a DOT pre-employment drug and/or alcohol test must provide proof of having successfully completed a referral, evaluation, and treatment plan meeting DOT requirements.

FMCSA Drug Testing Exceptions

A driver is not required to undergo a pre-employment test if:

- (1) The driver has participated in a DOT testing program within the previous 30 days; and
- (2) While participating in that program, either:
 - a) Was drug tested within the past six months (from the date of application with the City of Iowa City), or
 - b) Participated in the random drug testing program for the previous 12 months (from the date of application with the City of Iowa City); and
- (3) The City of Iowa City can ensure that no prior employer of the driver of whom the City of Iowa City has knowledge has records of a violation of this part or the controlled substances use rule of another DOT agency within the previous six months

Reasonable Suspicion Testing

All covered employees shall be subject to a drug and/or alcohol test when the City of Iowa City has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. A reasonable suspicion referral for testing will be made by a trained supervisor or other trained company official on the basis of specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee.

Covered employees may be subject to reasonable suspicion drug testing any time while on duty. Covered employees may be subject to reasonable suspicion alcohol testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions.

Post-Accident Testing

FTA Procedures

Covered employees shall be subject to FTA post-accident drug and alcohol testing under the following circumstances:

Fatal Accidents

As soon as practicable following an accident involving the loss of a human life, drug and alcohol tests will be conducted on each surviving covered employee operating the public transportation vehicle at the time of the accident. In addition, any other covered employee whose performance could have contributed to the accident, as determined by the City of Iowa City using the best information available at the time of the decision, will be tested.

Non-fatal Accidents

As soon as practicable following an accident not involving the loss of a human life, drug and alcohol tests will be conducted on each covered employee operating the public transportation vehicle at the time of the accident if at least one of the following conditions is met:

- (1) The accident results in injuries requiring immediate medical treatment away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident

- (2) One or more vehicles incurs disabling damage and must be towed away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident
- (3) The vehicle is a rail car, trolley car or bus, or vessel, and is removed from operation, unless the covered employee can be completely discounted as a contributing factor to the accident

In addition, any other covered employee whose performance could have contributed to the accident, as determined by the City of Iowa City using the best information available at the time of the decision, will be tested.

A covered employee subject to post-accident testing must remain readily available, or it is considered a refusal to test. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

FMCSA Procedures

Covered employees shall be subject to FMCSA post-accident drug and alcohol testing under the following circumstances:

Fatal Accidents

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, and involving the loss of a human life, drug and alcohol tests will be conducted on each surviving covered employee who was performing safety-sensitive functions with respect to the vehicle.

Non-fatal Accidents

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, and not involving the loss of a human life, an alcohol test will be conducted on each driver who receives a citation within eight (8) hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if:

- (1) The accident results in injuries requiring immediate medical treatment away from the scene; or
- (2) One or more motor vehicles incur disabling damage and must be transported away from the scene by a tow truck or other motor vehicle.

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, and not involving the loss of a human life, a drug test will be conducted on each driver who receives a citation within thirty-two (32) hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if:

- (1) The accident results in injuries requiring immediate medical treatment away from the scene; or
- (2) One or more motor vehicles incur disabling damage and must be transported away from the scene by a tow truck or other motor vehicle.

A covered employee subject to post-accident testing must remain readily available, or it is considered a refusal to test. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

Random Testing

Random drug and alcohol tests are unannounced and unpredictable, and the dates for administering random tests are spread reasonably throughout the calendar year. Random testing will be conducted at all times of the day when safety-sensitive functions are performed.

Testing rates will meet or exceed the minimum annual percentage rate set each year within each DOT agency. The current year testing rates can be viewed online at <http://www.transportation.gov/odapc/random-testing-rates>. If a given driver is subject to random testing under the rules of more than one DOT agency, the driver will be subject to random drug and alcohol testing at the annual percentage rate established by the DOT agency regulating more than 50% of the driver's function.

The selection of employees for random drug and alcohol testing will be made by a scientifically valid method, such as a random number table or a computer-based random number generator. Under the selection process used, each covered employee will have an equal chance of being tested each time selections are made.

A covered employee may only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions. A covered employee may be randomly tested for prohibited drug use anytime while on duty.

Each covered employee who is notified of selection for random drug or random alcohol testing must immediately proceed to the designated testing site.

Return to Duty Testing

Any employee who is allowed to return to safety-sensitive duty after failing or refusing to submit to a DOT drug and/or alcohol test must first be evaluated by a substance abuse professional (SAP), complete a SAP-required program of education and/or treatment, and provide a negative return-to-duty drug and/or alcohol test result. All tests will be conducted in accordance with 49 CFR Part 40, Subpart O.

Follow-up Testing

Employees returning to safety-sensitive duty following leave for substance abuse rehabilitation will be required to undergo unannounced follow-up alcohol and/or drug testing for a period of one (1) to five (5) years, as directed by the SAP. The duration of testing will be extended to account for any subsequent leaves of absence, as necessary. The type (drug and/or alcohol), number, and frequency of such follow-up testing shall be directed by the SAP. All testing will be conducted in accordance with 49 CFR Part 40, Subpart O.

6. Testing Procedures

All FTA drug and alcohol testing will be conducted in accordance with 49 CFR Part 40, as amended.

Dilute Urine Specimen

If there is a negative dilute test result, the City of Iowa City will accept the test result and there will be no retest, unless the creatinine concentration of a negative dilute specimen was greater than or equal to 2 mg/dL, but less than or equal to 5 mg/dL.

Dilute negative results with a creatinine level greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL require an immediate recollection under direct observation (see 49 CFR Part 40, section 40.67).

Split Specimen Test

In the event of a verified positive test result, or a verified adulterated or substituted result, the employee can request that the split specimen be tested at a second laboratory. The City of Iowa City guarantees that the split specimen test will be conducted in a timely fashion.

7. Test Refusals

As a covered employee, you have refused to test if you:

- (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the City of Iowa City.
- (2) Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- (3) Fail to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.

- (4) In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
- (5) Fail to provide a sufficient quantity of urine or breath without a valid medical explanation.
- (6) Fail or decline to take a second test as directed by the collector or the City of Iowa City for drug testing.
- (7) Fail to undergo a medical evaluation as required by the MRO or the City of Iowa City's Designated Employer Representative (DER).
- (8) Fail to cooperate with any part of the testing process.
- (9) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
- (10) Possess or wear a prosthetic or other device used to tamper with the collection process.
- (11) Admit to the adulteration or substitution of a specimen to the collector or MRO.
- (12) Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- (13) Fail to remain readily available following an accident.

As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

As a covered employee, if you refuse to take a drug and/or alcohol test, you incur the same consequences as testing positive and will be immediately removed from performing safety-sensitive functions, and referred to a SAP.

8. Prescription Drug Use

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to the employee's supervisor. Medical advice should be sought, as appropriate, while taking such medication and before performing safety-sensitive duties.

9. FMCSA Clearinghouse

Effective January 6, 2020, personal information collected and maintained pursuant to FMCSA regulations will be reported to the FMCSA Clearinghouse, including:

- (1) any verified positive, adulterated, or substituted drug test result;
- (2) an alcohol confirmation test with a concentration of 0.04 or higher;
- (3) a refusal to submit to any test required by the regulations;
- (4) an employer's report of actual knowledge, as defined in the regulations, of on-duty alcohol use; pre-duty alcohol use following an accident; and controlled substance use;
- (5) a substance abuse professional report of the successful completion of the return-to-duty process;

- (6) a negative return-to-duty test; and
- (7) an employer's report of completion of follow-up testing.

The FMCSA requires that the City conduct a pre-employment query of the Clearinghouse for drug and alcohol violation information on all applicants for FMCSA safety-sensitive positions and an annual query on employees in an FMCSA safety sensitive position. Employees are required to provide necessary, timely consent for these queries as a condition of employment.

10. Contact Person

For questions about the City of Iowa City's anti-drug and alcohol misuse program, contact Human Resources.

Attachment A: Covered Positions

FTA Safety-Sensitive Positions

Mass Transit Operator
Maintenance Worker II – Transit
Operations Specialist - Transit
Operations Supervisor
Mechanic II – Transit
Mechanic III – Transit
Associate Director – Transportation Services

FMCSA Safety-Sensitive Positions

Cemetery

MW III - Cemetery

Equipment

Equipment Superintendent
Equipment Shop Supervisor
Mechanic I
Mechanic II
Mechanic III (Day)
Mechanic III (Evening)

Forestry

MW I – Forestry
MW II – Forestry
MWIII – Forestry
Senior MW – Forestry

Landfill

Assistant Superintendent – Landfill
Landfill Operator
Landfill Operator – Heavy Equipment
MWII – East Side Recycling Center

Parks

MW I – Parks
MW II – Parks
MWII - Horticulture
MW III – Parks
Senior MW – Parks

Senior MW – Turfgrass Specialist

Refuse

Assistant Superintendent – Refuse
MW I – Refuse
MW II – Refuse
MW III – Refuse

Resource Management

Resource Management Superintendent

Streets/Traffic Engineering

Electrician – Traffic Engineering
Electronics Technician – Traffic Engineering
MW I – Streets
MW II – Streets
MW III – Streets
MW III – Lead Sweeper Operator
Signs and Pavement Markings Technician
Senior MW – Streets

Wastewater

Electrician – Wastewater
Electronics Technician – Wastewater
Maintenance Operator – Wastewater
MW I – Wastewater Treatment
MW II – Wastewater Treatment
MW III – Wastewater Collections
Sr MW – Wastewater Collections
Sr. MW – Wastewater Plant

Treatment Plant Operator – WW Treatment
Sr. TPO Wastewater Treatment

Water

Maintenance Operator – Water
MW I – Water Customer Service
MW II – Water Service
MW III – Water Service
MW II -Water Distribution
MW III – Water Distribution
Senior MW – Water Distribution
Senior MW – Water Plant
Senior TPO - Water

All employees working in variable hour and seasonal positions which require a CDL for the performance of safety-sensitive functions.

b.d

Resolution Number. 19-280

Resolution rescinding Resolution No. 19-232 and adopting an updated DOT Drug and Alcohol Policy.

Whereas, federal law mandates alcohol and drug testing programs for employees in Department of Transportation safety-sensitive positions; and

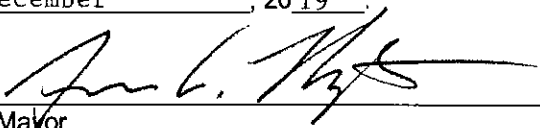
Whereas, Resolution No. 19-232 adopted by the City Council on September 17, 2019, established the existing DOT Drug and Alcohol Policy; and

Whereas, the program and policy have been updated to include new Federal Motor Carrier Safety Administration (FMCSA) Clearinghouse requirements.


Now Therefore, be it resolved by the City Council of the City of Iowa City, Iowa that:

1. The existing DOT Drug and Alcohol Policy established by Resolution No 19-232 is hereby rescinded.
2. The DOT Drug and Alcohol Policy attached to this resolution and by this reference made a part hereof is hereby established and adopted.

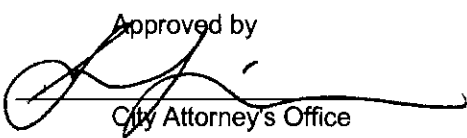
Passed and approved this 3rd day of December, 2019.



 Mayor

Attest: 

 City Clerk

Approved by


 City Attorney's Office

It was moved by Mims and seconded by Salih the Resolution be adopted, and upon roll call there were:

AYES:	NAYS:	ABSENT:
<u>X</u>	_____	_____ Cole
<u>X</u>	_____	_____ Mims
<u>X</u>	_____	_____ Salih
<u>X</u>	_____	_____ Taylor
<u>X</u>	_____	_____ Teague
<u>X</u>	_____	_____ Thomas
<u>X</u>	_____	_____ Throgmorton