

ORDINANCE NO. 00-12

**AN ORDINANCE TO AMEND ORDINANCE 99-4 ADDING
SUBSECTION Na, ESTABLISHING POLICY AND RULES FOR THE USE
OF RANDOM DRUG TESTING FOR EMPLOYEES OF THE CITY OF
SPRING HILL**

**BE IT THEREFORE ORDAINED BY THE BOARD OF MAYOR
AND ALDERMEN OF THE CITY OF SPRING HILL, TENNESSEE:**

That Ordinance 99-4, Personnel Rules and Regulations, passed and adopted on May 17, 1999, is hereby amended by adding Subsection Na, Policy and Rules for the use of Random Drug Testing of City employees, to Section VII - Miscellaneous Personnel Policies, and same is attached hereto as Exhibit A, and made a part of this Ordinance.

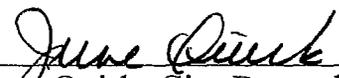
BE IT FURTHER ENACTED, that this ordinance shall take effect from and after its adoption.

Passed and adopted by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee on the 17th day APRIL, 2000.



Ray Williams, Mayor

ATTEST:



June Quirk, City Recorder

LEGAL FORM APPROVED:



M. Andrew Hoover, City Attorney

Passed on 1st Reading March 20, 2000

Passed on 2nd Reading April 17, 2000

Town of Spring Hill

**DRUG AND ALCOHOL
TESTING POLICY**

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DRUG AND ALCOHOL TESTING POLICY

1. PURPOSE

The Town of Spring Hill recognizes that the use and abuse of drugs and alcohol in today's society is a serious problem that may involve the workplace. It is the intent of the Town of Spring Hill to provide all employees with a safe and secure workplace in which each person can perform his/ her duties in an environment that promotes individual health and workplace efficiency. Employees of the Town of Spring Hill are public employees and must foster the public trust by preserving employee reputation for integrity, honesty, and responsibility.

To provide a safe, healthy, productive, and drug-free working environment for its employees to properly conduct the public business, the Town of Spring Hill has adopted this drug and alcohol testing policy effective _____, 2000. This policy complies with the: Drug-Free Workplace Act of 1988, which insures employees the right to work in an alcohol- and drug-free environment and to work with persons free from the effects of alcohol and drugs; Federal Highway Administration (FHWA) rules, which require drug and alcohol testing for persons required to have a commercial driver's licence (CDL); Division of Transportation (DOT) rules, which include procedures for urine drug testing and breath alcohol testing; and the Omnibus Transportation Employee Testing Act of 1991, which requires alcohol and drug-testing for safety-sensitive employees in the aviation, motor carrier, railroad, pipeline, commercial marine, and mass transit industries. In the case of this policy, the Omnibus Transportation Employee Testing Act of 1991 is most significant with its additional requirement of using the "split specimen" approach to drug testing, which provides an extra safeguard for employees. The types of tests required are: pre-employment, transfer, reasonable suspicion, post-accident (post incident), random, return-to-duty, and follow up.

It is the policy of the Town of Spring Hill that the use of drugs and/ or alcohol are prohibited and will not be tolerated. Engaging in prohibited and/ or illegal conduct may lead to termination of employment. Prohibited and/ or illegal conduct includes but is not limited to:

1. Being on duty or performing work in or on Town property while under the influence of drugs and/ or alcohol;
2. Engaging in the manufacture, sale, distribution, use, or unauthorized possession of (illegal) drugs at any time and of alcohol while in or on Town property;
3. Refusing or failing a drug and/ or alcohol test administered under this policy;
4. Providing an adulterated, altered, or substituted specimen for testing;
5. Use of alcohol within four hours prior to reporting for duty on schedule or use of alcohol while on-call for duty; and
6. Use of alcohol or drugs within eight hours following an accident (incident) if the employee's involvement has not been discounted as a contributing factor in the accident (incident) or until the employee has successfully completed the drug and/ or alcohol testing procedures.

This policy does not preclude the appropriate use of legally prescribed medication that does not adversely affect the mental, physical, or emotional ability of the employee to safely and efficiently perform his/ her duties. It is the employee's responsibility to inform the proper supervisory personnel of his/ her use of such legally prescribed medication before the employee goes on duty or preforms any work.

In order to educate the employees about the dangers of drug and/ or alcohol abuse, the Town shall sponsor an information and education program for all employees and supervisors. Information will be provided on the signs and symptoms of drug and/ or alcohol abuse; the effects of drug and/ or alcohol abuse on an individual's health, work, and personal life; the City's policy regarding drugs and alcohol; and the availability of counseling. The City Administrator has been designated as the municipal official responsible for answering questions regarding this policy and its implementation.

All Town of Spring Hill property may be subject to inspection at any time without notice. There should be no expectation of privacy in such property. Property includes, but is not limited to, vehicles, desks, containers, files, and lockers.

2. SCOPE

This policy shall apply to full-time, part-time, temporary, and volunteer employees of the Town of Spring Hill. This policy also applies to applicants for positions requiring a CDL and other safety sensitive positions who have been given a conditional offer of employment from the Town of Spring Hill.

3. CONSENT FORM

Before a drug and/ or alcohol test is administered, employees and applicants will be asked to sign a consent form authorizing the test and permitting release of test results to the laboratory, medical review officer (MRO), City Administrator, or his/ her designee. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the City's drug and alcohol testing policy.

The consent form shall set forth the following information:

1. The procedure for confirming and verifying an initial positive test result;
2. The consequences of a verified positive test result; and
3. The consequences of refusing to undergo a drug and alcohol test.

The consent form also provides authorization for certified or licensed attending medical personnel to take and have analyzed appropriate specimens to determine if drugs or alcohol were present in the employee's system.

4. COMPLIANCE WITH SUBSTANCE ABUSE POLICY

Compliance with this substance abuse policy is a condition of employment. The failure or refusal by an applicant or employee to cooperate fully by signing necessary consent forms or other required documents or the failure or refusal to submit to any test or any procedure under this policy in a timely manner will be

grounds for refusal to hire or for termination. The submission by an applicant or employee of a urine sample that is not his/ her own or is adulterated shall be grounds for refusal to hire or for termination.

5. GENERAL RULES

These are the general rules governing the Town of Spring Hill's drug and alcohol testing program:

1. Town employees shall not take or be under the influence of any drugs unless prescribed by the employee's licensed physician. Employees who are required to take prescription and/or over the counter medications shall notify the proper supervisory personnel before the employee goes on duty.
2. Town employees are prohibited from engaging in the manufacture, sale, distribution, use, or unauthorized possession of illegal drugs at any time and of alcohol while in or on Town property.
3. All Town of Spring Hill property is subject to inspection at any time without notice. There should be no expectation of privacy in or on such property. Town property includes, but is not limited to, vehicles, desks, containers, files, and lockers.
4. Any employee convicted of violating a criminal drug statute shall inform the director of his/ her department of such conviction (including pleas of guilty and *nolo contendere*) **within 5 days** of the conviction occurring. Failure to so inform the Town subjects the employee to disciplinary action up to and including termination for the first offense. The Town will notify the federal contracting officer pursuant to applicable provisions of the Drug-Free Workplace Act and the Omnibus Transportation Employee Testing Act.

6. DRUG TESTING

An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and applicants may be required to submit to drug testing under six separate conditions:

A. Types of Tests

1. Pre-employment / Initial Testing

All applications for employee status for positions requiring a CDL who have received a conditional offer of employment with the Town of Spring Hill must take a drug test before receiving a final offer of employment. Upon adoption of this policy all personnel of the Town of Spring Hill must take a drug test within (30) days of the adoption hereof, and at random times thereafter during the term of employment.

2. Transfer

Employees transferring to another position within the Town that requires a commercial driver's license (CDL) shall undergo drug testing.

3. **Post-Accident/Post-Incident Testing**

Following any workplace accident (incident) determined by supervisory personnel of the Town of Spring Hill to have resulted in significant property or environmental damage or in significant medical treatment, each employee whose performance either contributed to the accident (incident) or cannot be discounted as a contributing factor to the accident (incident) and who is reasonably suspected of possible drug use as determined during a routine post-accident (post-incident) investigation or who receives a citation for a moving violation arising from the accident will be required to take a post-accident (post-incident) drug test.

Post-accident (post-incident) testing shall be carried out within 32 hours following the accident (incident). Urine collection for post-accident (post-incident) testing shall be monitored or observed by same-gender collection personnel at the established collection site(s).

In instances where post-accident (post-incident) testing is to be performed, the Town of Spring Hill reserves the right to direct the medical review officer (MRO) to instruct the designated laboratory to perform testing on submitted urine specimens for possible illegal/legitimate substances.

Any testing for additional substances listed under the Tennessee Drug Control Act of 1989 as amended shall be performed at the urinary cutoff level that is normally used for those specific substances by the laboratory selected.

a. **Post-Accident (Post-Incident) Testing for Ambulatory Employees**

Following all workplace accidents (incidents) where drug testing is to be performed, unless otherwise specified by the department head, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the Town of Spring Hill to the designated urine specimen collection site within 32 hours following the accident. In the event of an accident (incident) occurring after regular work hours, the employee(s) will be taken to the testing site within 32 hours. No employee shall consume drugs prior to completing the post-accident (post-incident) testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident (post-incident) testing. Any unreasonable delay in providing specimens for drug testing shall be considered a refusal to cooperate with the substance abuse program of the Town of Spring Hill and shall result in administrative action up to and including termination of employment.

b. **Post-Accident (Post-Incident) Testing for Injured Employees**

An affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident (incident) shall consent to the obtaining of specimens for drug testing by qualified, licensed attending

medical personnel and consent to the testing of the specimens. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the medical review officer (MRO) of the Town of Spring Hill appropriate and necessary information or records that would indicate only whether or not specified prohibited drugs (and what amounts) were found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the Town of Spring Hill or upon hiring following the implementation date.

Post-accident (post-incident) urinary testing may be impossible for unconscious, seriously-injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if drugs were present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure to do post-accident (post-incident) testing within 32 hours must be fully documented by the attending medical personnel.

4. Testing Based on Reasonable Suspicion

A drug test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of drugs and/or alcohol.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used drugs. This belief should be based on recent, physical, behavioral, or performance indicators of possible drug use. One supervisor who has received drug detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the Town of Spring Hill making a determination to subject any employee to drug testing based on reasonable suspicion shall document their specific reasons and observations in writing to the (Town Recorder) within 24 hours of the decision to test and before the results of the urine drug tests are received by the department. Urine collection for reasonable suspicion testing shall be monitored or observed by same-gender collection personnel.

5. Random Testing

Only employees of the Town of Spring Hill possessing or wishing to obtain a commercial driver's license (CDL) are subject to random urine drug testing. It is the policy of the Town of Spring Hill to annually random test for drugs at least 50 percent of the total number of drivers possessing or obtaining a commercial driver's license (CDL).

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random urine drug testing and the actual presentation for specimen collection.

Random donor selection dates will be unannounced with unpredictable frequency. Some may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e., vacation, sick day, out of town, work-related causes, etc.) to produce a specimen on the date random testing occurs, the Town of Spring Hill may omit that employee from that random testing or await the employee's return to work.

6. Return-to-Duty and Follow-Up

Any employee of the Town of Spring Hill who has violated the prohibited drug conduct standards and is allowed to return to work, must submit to a return-to-duty test. Follow-up tests will be unannounced, and at least six tests will be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly.

Testing will also be performed on any employee possessing a CDL returning from leave or special assignment in excess of six months. In this situation, the employee will not be required to pay for the testing.

B. PROHIBITED DRUGS

All drug results will be reported to the medical review officer (MRO). If verified by the MRO, they will be reported to the City Administrator. The following is a list of drugs for which tests will be routinely conducted (see Appendix A for cutoff levels):

1. amphetamines,
2. marijuana,
3. cocaine,
4. opiates.
5. phencyclidine (PCP),
6. alcohol, and
7. depressants.

The Town may test for any additional substances listed under the Tennessee Drug Control Act of 1989.

C. DRUG TESTING COLLECTION PROCEDURES

Testing will be accomplished as non-intrusively as possible. Affected employees, except in cases of random testing, will be taken by a supervisor or designated personnel of the Town of Spring Hill to a drug test collection facility selected by the Town of Spring Hill (see Appendix B), where a urine sample will be taken from the employee in privacy. The urine sample will be immediately sealed by personnel overseeing the specimen collection after first being examined by these personnel for signs of alteration, adulteration, or substitution. The sample will be placed in a secure mailing container. The employee will be asked to complete a chain-of-custody form to accompany the sample to a laboratory selected by the Town of Spring Hill to perform the analysis on collected urine samples.

D. DRUG TESTING LABORATORY STANDARDS AND PROCEDURES

All collected urine samples will be sent to a laboratory that is certified and monitored by the federal Department of Health and Human Services (DHHS) (see Appendix C).

As specified earlier, in the event of an accident (incident) occurring after regular work hours, the supervisor or designated personnel shall take the employee(s) to the (testing site) within 32 hours where proper collection procedures will be administered.

The Omnibus Act requires that drug testing procedures include split specimen procedures. Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Both bottles are sent to a laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence of drugs, the employee has 72 hours to request sending the split specimen to another federal Department of Health and Human Services (DHHS) certified laboratory for analysis. The employee will be required to pay for his or her split specimen test(s).

For the employee's protection, the results of the analysis will be confidential except for the testing laboratory. After the MRO has evaluated a positive test result, the employee will be notified, and the MRO will notify the City Administrator.

E. REPORTING AND REVIEWING

The Town of Spring Hill shall designate a medical review officer (MRO) to receive, report, and file testing information transmitted by the laboratory. This person shall be a licensed physician with knowledge of substance abuse disorders (see Appendix C).

1. The laboratory shall report test results only to the designated MRO, who will review them in accordance with accepted guidelines and the procedures adopted by the Town of Spring Hill.

2. Reports from the laboratory to the MRO shall be in writing or by fax. The MRO may talk with the employee by telephone upon exchange of acceptable identification.

3. The testing laboratory, collection site personnel, and MRO shall maintain security over all the testing data and limit access to such information to the following: the respective department head, the City Administrator, and the employee.
4. Neither the Town of Spring Hill, the laboratory, nor the MRO shall disclose any drug test results to any other person except under written authorization from the affected employee, unless such results are necessary in the process of resolution of accident (incident) investigations, requested by court order, or required to be released to parties (i.e., DOT, the Tennessee Department of Labor, etc.) having legitimate right-to-know as determined by the town attorney.

7. ALCOHOL TESTING

An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and applicants may be required to submit to alcohol testing under six separate conditions:

A. Types of Tests

1. Post-Accident/Post-Incident Testing

Following any workplace accident (incident) determined by supervisory personnel of the Town of Spring Hill to have resulted in significant property or environmental damage or in significant personal injury, including but not limited to a fatality or human injury requiring medical treatment, each employee whose performance either contributed to the accident (incident) or cannot be discounted as a contributing factor to the accident (incident) and who is reasonably suspected of possible alcohol use as determined during a routine post-accident (post-incident) investigation or who receives a citation for a moving violation arising from the accident will be required to take a post-accident (post-incident) alcohol test.

Post-accident (post-incident) testing shall be carried out within two hours following the accident (incident).

a. Post-Accident (Post-Incident) Testing for Ambulatory Employees

Following all workplace accidents (incidents) where alcohol testing is to be performed, unless otherwise specified by the department head, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the Town of Spring Hill to the designated breath alcohol test site for a breath alcohol test within two hours following the accident. In the event of an accident (incident) occurring after regular work hours, the employee(s) will be taken to the (testing site) within two hours. No employee shall consume alcohol prior to completing the post0accident (post-incident) testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident (post-incident) testing. Any unreasonable delay in appearing for alcohol testing shall be considered a refusal to cooperate with the substance abuse program of the Town of Spring Hill and shall result in administrative action up to and including termination of employment.

b. Post-Accident (Post-Incident) Testing for Injured Employees

An affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident (incident) shall consent to the obtaining of specimens for alcohol testing by qualified, licensed attending medical personnel and consent to specimen testing. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the medical review officer (MRO) of the Town of Spring Hill appropriate and necessary information or records that would indicate only whether or not specified prohibited alcohol (and what amount) was found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the Town of Spring Hill or upon hiring following the implementation date.

Post-accident (post-incident) breath alcohol testing may be impossible for unconscious, seriously injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if alcohol was present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure to do post-accident (post-incident) testing within two hours must be fully documented by the attending medical personnel.

2. Testing Based on Reasonable Suspicion

An alcohol test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of alcohol.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used alcohol. This belief should be based on recent, physical, behavioral, or performance indicators of possible alcohol use. One supervisor who has received alcohol detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the Town of Spring Hill making a determination to subject any employee to alcohol testing based on reasonable suspicion shall document their specific reasons and observations in writing to the City Administrator within eight hours of the decision to test and before the results of the tests are received by the department.

3. Random Testing

Only employees of the Town of Spring Hill possessing or wishing to obtain a commercial

driver's license (CDL) are subject to random alcohol testing. It is the policy of the Town of Spring Hill to annually random test for alcohol at least 25 percent of the total number of drivers possessing or obtaining a commercial driver's license.

A minimum of 15 and a maximum of two hours will be allowed between notification of an employee's selection for random alcohol testing and the actual presentation for testing.

Random test dates will be unannounced with unpredictable frequency. Some employees may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e., vacation, sick day, out of town, work-related causes, ect.) to be tested on the date random testing occurs, the Town of Spring Hill may omit that employee from that random testing or await the employee's return to work.

4. Return-to-Duty and Follow-Up

Any employee of the Town of Spring Hill who has violated the prohibited alcohol conduct standards must submit to a return-to-duty test. Follow-up tests will be unannounced, and at least six tests will be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly.

Testing will also be performed on any employee with a CDL returning from leave or special assignment in excess of six months. In this situation, the employee will not be required to pay for the testing.

B. ALCOHOL TESTING PROCEDURES

All breath alcohol testing conducted for the Town of Spring Hill shall be performed using evidential breath testing (EBT) equipment and personnel approved by the National Highway Traffic Safety Administration (NHTSA).

Alcohol testing is to be performed by a qualified technician as follow:

1. Step One:

An initial breath alcohol test will be performed using a breath alcohol analysis device approved by the National Highway Traffic Safety Administration (NHTSA). If the measured result is less than 0.02 percent breath alcohol level (BAL), the test shall be considered negative. If the result is greater or equal to 0.04 percent BAL, the result shall be recorded and witnessed, and the test shall proceed to Step Two.

2. **Step Two:**

Fifteen minutes shall be allowed to pass following the completion of Step One above. Before the confirmation test or Step Two is administered for each employee, the breath alcohol technician shall insure that the evidential breath testing device registers 0.00 on an air blank. If the reading is greater than 0.00, the breath alcohol technician shall conduct one more air blank. If the reading is greater than 0.00, testing shall not proceed using that instrument. However, testing may proceed on another instrument. Then Step One shall be repeated using a new mouthpiece and either the same or equivalent but different breath analysis device.

The breath alcohol level detected in Step Two shall be recorded and witnessed.

If the lower of the breath alcohol measurements in Step One and Step Two is 0.04 percent or greater, the employee shall be considered to have failed the breath alcohol test. Failure of the Breath alcohol test shall result in administrative action by proper officials of the Town of Spring Hill up to and including termination of employment.

Any breath level found upon analysis to be between 0.02 percent BAL and 0.04 percent BAL shall result in the employee's removal from duty without pay for a minimum of 24 hours. In this situation, the employee must be retested by breath analysis and found to have a BAL of up to 0.02 percent before returning to duty with the Town of Spring Hill.

All breath alcohol test results shall be recorded by the technician and shall be witnessed by the tested employee and by a supervisory employee of the Town of Spring Hill, when possible.

The completed breath alcohol test form shall be submitted to the City Administrator.

8. **EDUCATION AND TRAINING**

A. **Supervisory Personnel Who Will Determine Reasonable Suspicion Testing**

Training supervisory personnel who will determine whether an employee must be tested based on reasonable suspicion will include at the minimum two 60-minute periods of training on the specific, contemporaneous, physical, behavioral, and performance indicators of both probable drug use and alcohol use. One 60-minute period will be for drugs and one will be for alcohol.

The Town of Spring Hill will sponsor a drug-free awareness program for all employees.

B. **Distribution of Information**

The minimal distribution of information for all employees will include the display and distribution of:

- a. information material on the effects of drug and alcohol abuse;
- b. an existing community services hotline number, available drug counseling, rehabilitation, and employee assistance programs for employee assistance;
- c. the town of Spring hill policy regarding the use of prohibited drugs and/or alcohol; and
- d. the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

9. CONSEQUENCES OF A CONFIRMED POSITIVE DRUG AND/OR ALCOHOL TEST RESULT AND/OR VERIFIED POSITIVE DRUG AND/OR ALCOHOL TEST RESULT

Job applicants will be denied employment with the Town of Spring Hill if their initial positive pre-employment drug and alcohol test results have been confirmed/verified.

If a current employee's positive drug and alcohol test result has been confirmed, the employee is subject to immediate removal from any safety-sensitive function and may be subject to disciplinary action up to and including termination. The town may consider the following factors in determining the appropriate disciplinary response: the employee's work history, length of employment, current work assignment, current job performance, and existence of past disciplinary actions. However, the Town reserves the right to allow employees to participate at his/her own expense in an education and/or treatment programs approved by the Town Employee Assistance Program as an alternative to or in addition to disciplinary action. If such a program is offered and accepted by the employee, then the employee must satisfactorily participate in and complete the program as a condition of continued employment.

No disciplinary action may be taken pursuant to this drug policy against employees who voluntarily identify themselves as drug users, obtain counseling and rehabilitation through the Town's Employee Assistance Program or other program sanctioned by the Town, and thereafter refrain from violating the town's policy on drug and alcohol abuse. However, voluntary identification will not prohibit disciplinary action for the violation of town personnel policy and regulations, nor will it relieve the employee of any requirements for return to duty testing.

Refusing to submit to an alcohol or controlled substance test means that a driver: (1) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part; (2) fails to provide adequate urine for controlled substance testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or (3) engages in conduct that clearly obstructs the testing process. In either case the physician or breath alcohol technician shall provide a written statement to the Town indicating a refusal to test.

10. VOLUNTARY DISCLOSURE OF DRUG AND/OR ALCOHOL USE

In the event that an employee of the Town of Spring Hill is dependent upon or an abuser of drugs and/or alcohol and sincerely wishes to seek professional medical care, that employee should voluntarily discuss his/her problem with the respective department head in private.

Such voluntary desire for help with a substance abuse problem will be honored by the Town of Spring Hill. If substance abuse treatment is required, the employee will be removed from active duty pending completion of the treatment.

Affected employees of the Town of Spring Hill may be allowed up to 30 consecutive calendar days for initial substance abuse treatment as follows:

1. The employee must seek all vacation, sick, and compensatory time available.
2. In the event accumulated vacation, sick, and compensatory time is insufficient to provide the medically prescribed and needed treatment up to a maximum of 30 consecutive calendar days, the employee will be provided unpaid leave for the difference between the amount of accumulated leave and the number of days prescribed and needed for treatment up to the maximum 30-day treatment period.

Voluntary disclosure must occur before an employee is notified of or otherwise becomes subject to a pending drug and/or alcohol test.

Prior to any return-to-duty consideration of an employee following voluntary substance abuse treatment, the employee shall obtain a return-to-duty recommendation from the substance abuse professional (SAP) of the Town of Spring Hill. The SAP may suggest conditions of reinstatement of the employee that may include after-care and return-to-duty and/or random drug and alcohol testing requirements. The respective department head and City Administrator of the Town of Spring Hill will consider each case individually and set forth final conditions of reinstatement to active duty. These conditions of reinstatement must be met by the employee. Failure of the employee to complete treatment or follow after-care conditions, or subsequent failure of any drug and alcohol test under this policy will result in administrative action up to and including termination of employment.

These provisions apply to voluntary disclosure of a substance abuse problem by an employee of the Town of Spring Hill. Voluntary disclosure provisions do not apply to applicants. Employees found positive during drug and/or alcohol testing under this policy are subject to administrative action up to and including termination of employment as specified elsewhere in this policy.

11. EXCEPTIONS

This policy does not apply to possession, use, or provision of alcohol and/or drugs by employees in the context of authorized work assignment (i.e., undercover police enforcement, intoxilyzer demonstrations). In all such cases, it is the individual employee's responsibility to ensure that job performance is not adversely affected by the possession, use, or provision of alcohol.

12. MODIFICATION OF POLICY

This statement of policy may be revised by the Town of Spring Hill at any time to comply with applicable federal and state regulations that may be implemented, to comply with judicial rulings, or to meet any changes in the work environment or changes in the drug and alcohol testing policy of the Town of Spring Hill.

This employee drug and alcohol testing policy has been approved and adopted by the Town of Spring Hill effective _____, 2000.

Mayor

ATTEST:

City Administrator

APPROVED AS TO FORM:

Town Attorney

13. DEFINITIONS

For purposes of the drug and alcohol testing policy, the following definitions are adopted.

Alcohol - The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol's including methyl or isopropyl alcohol.

Alcohol Concentration - The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test.

Alcohol Use - The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

Applicant - Any person who has on file an application for employment or any person who is otherwise being considered for employment or transfer to the police department, fire department, or to a position requiring a commercial driver's license (CDL) being processed for employment. For the purposes of this policy, an applicant may also be: a uniformed employee who has applied for and is offered a promotion or who has been selected for a special assignment; a non-uniformed employee who is offered a position as a uniformed employee; or an employee transferring to or applying for a position requiring a CDL.

Breath Alcohol Technician (BAT) - An individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).

Chain of Custody - The method of tracking each urine specimen to maintain control from initial collection to final disposition for such samples and accountability at each stage of handling, testing, storing, and reporting.

Collection Site - A place where applicants or employees present themselves to provide, under controlled conditions, a urine specimen that will be analyzed for the presence of alcohol and/or drugs. Collection site may also include a place for the administration of a breath analysis test.

Collection Site Personnel - A person who instructs donors at the collection site.

Commercial Driver's License (CDL) - A motor vehicle driver's license required to operate a commercial motor vehicle (CMV).

Commercial Motor Vehicle (CMV) - Any vehicle or combination of vehicles meeting the following criteria: weighing more than 26,000 pounds; designed to transport more than 15 passengers; transporting hazardous materials required by law to be placarded, regardless of weight; and/or classified as a school bus.

Confirmation Test - In drug testing, a second analytical procedure that is independent of the initial test to identify the presence of a specific drug or metabolite that uses a different chemical principal from that of the initial test to ensure reliability and accuracy. In breath alcohol testing, a second test following an initial test with a result of 0.02 or greater that provides quantitative data of alcohol concentration.

Confirmed Positive Result - The presence of an illicit substance in the form or its metabolites at or above the cutoff level specified by the National Institute of Drug Abuse identified in two consecutive tests that

utilize different test methods and that was not determined by the appropriate medical, scientific, professional testing, or forensic authority to have been caused by an alternate medical explanation or technically insufficient data. An EBT result equal to or greater than 0.02 is considered a positive result.

Consortium - An entity, including a group or association of employers or contractors, which provides alcohol or controlled substances testing as required by this part or other DOT alcohol or drug testing rules and that acts on behalf of the employers.

Department Director - The director or chief of a Town department or his/her designee. The designee may be an individual who acts on behalf of the director to implement and administer these procedures.

DHHS - The Federal Department of Health and Human Services or any designee of the secretary, Department of Health and Human Services.

DOT Agency - An agency of the United States Department of Transportation administering regulations related to alcohol and/or drug testing. For the Town of Spring Hill, the Federal Highway Administration (FHWA) is the DOT agency.

Driver - Any person who operates a commercial motor vehicle.

EAP - Employee Assistance Program.

Employee - An individual currently employed by the Town of Spring Hill.

Evidential Breath Testing Device (EBT) - An instrument 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."

FHWA - Federal Highway Administration.

Initial Test - In drug testing, an immunoassay test to eliminate negative urine specimens from further analysis. In alcohol testing, an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.

Medical Review Officer (MRO) - 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/her medical history and any other relevant biomedical information.

Negative Result - The absence of an illicit substance in the pure form or its metabolites in sufficient quantities to be identified by either an initial test or confirmation test.

NHTSA - National Highway and Traffic Safety Administration.

Refusal to Submit - Refusing to submit to an alcohol or controlled substance test means that a driver: (1) fails to provide adequate for testing without a valid medical explanation after he or she has received notice

of the requirement for breath testing in accordance with the provisions of this part; (2) fails to provide adequate urine for controlled substance testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or (3) engages in conduct that clearly obstructs the testing process.

Safety-Sensitive Drivers - Employees in the aviation, motor carrier, railroad, and mass transit industries.

Split Specimen - Urine drug test sample will be divided into two parts. One part will be tested initially, the other will remain sealed in case a retest is required or requested.

Substance Abuse Professional - A licensed physician (medical doctor or doctor of osteopathy), 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 controlled substance-related disorders.

APPENDIX A

V. EMPLOYEE ACKNOWLEDGMENT FORM (CDL Required)

Town of Spring Hill

EMPLOYEE ACKNOWLEDGMENT

As an applicant or an employee, I have carefully read the Town of Spring Hill drug and alcohol testing policy. I have received a copy of the Town of Spring Hill drug and alcohol testing policy, understand its requirements, and agree without reservation to follow this policy. As an applicant, I am aware that my offer of employment is conditional upon the results of a drug and/or alcohol test. As an employee, I am aware that I may be required to undergo drug and/or alcohol tests, that I will be informed prior to the drug and/or alcohol test, and that I may be subject to immediate dismissal if I refuse to take the test.

Name of Applicant or Employee

Social Security Number

Department

Supervisor

(Signature of Applicant or Employee)

Date

(Signature of Witness)

Date

APPENDIX B

W. CONSENT AND ACKNOWLEDGMENT FORM

Town of Spring Hill

DRUG/ ALCOHOL TESTING PROCEDURES

CONSENT AND ACKNOWLEDGMENT FORM

As an applicant or an employee with the Town of Spring Hill, I hereby consent to and acknowledge that I am scheduled to undergo drug and/or alcohol testing. The test for alcohol will be a breath analysis test. The drug test will involve an analysis of a urine sample, which I will provide at a designated site. The purpose of the test will be to test for the presence of the following substance: amphetamines, marijuana, cocaine, opiates, PCP, alcohol, and/or any additional drugs listed in the Tennessee Drug Control Act. I authorize qualified personnel to take and have analyzed appropriate specimens to determine if drugs and/or alcohol are present in my system. I acknowledge that the drug/alcohol screen test results will be made available to the testing laboratory, medical review officer (MRO), the City Administrator, or his/her designee. As an applicant, I am aware that a confirmed and verified positive drug/alcohol test result will rescind my conditional offer of employment. As an employee, I am aware that a confirmed and verified positive test result may lead to disciplinary action up to and including immediate dismissal. I will present a copy of this form to the collection site when I report for my scheduled drug/alcohol test. I also understand that failure to provide adequate breath for testing without a valid medical explanation, failure to provide adequate urine for controlled substances testing without a valid medical explanation, and engaging in conduct that clearly obstructs the testing process are the same as refusing to test.

Name of Applicant or Employee: _____

Department Name: _____

Social Security Number: _____

(Signature of Applicant or Employee)

Date

(Signature of Witness)

Date

APPENDIX C

REQUIREMENTS FOR ALCOHOL AND DRUG TESTING POLICY STATEMENTS

Local governments are required to develop a policy statement for the alcohol and drug testing programs. This policy statement must be distributed to every safety-sensitive employee prior to the start of the testing program, to representatives of employee organizations, and to new employees as they are hired or transferred into safety-sensitive positions. The FHWA rules require that the following information be included in the policy:

- 1) The name of the person designated by the employer to answer questions about the alcohol and drug testing programs;
- 2) The employees who are covered by the DOT and FHWA rules and consequently the local government's alcohol and drug testing policy;
- 3) Information about the safety-sensitive functions performed by the covered employees;
- 4) Information concerning safety-sensitive employee conduct that is prohibited under the DOT/FHWA rules;
- 5) The circumstances under which a driver will be tested for alcohol and drugs;
- 6) The procedures that will be followed to:
 - a) test for the presence of alcohol and drugs;
 - b) protect the covered employee and the integrity of the testing processes;
 - c) safeguard the validity of the test results;
 - d) ensure that those results are attributed to the correct employee;
- 7) The requirements that a covered employee submit to alcohol and drug tests administered in accordance with the DOT/FHWA rules;
- 8) An explanation of what constitutes a refusal to submit to an alcohol or drug test and the resulting consequences;
- 9) The consequences resulting from positive alcohol and/or drug tests;
- 10) Information concerning -
 - a) the effects of alcohol and drug use on an individual's health, work, and personal life
 - b) signs and symptoms of an alcohol or drug problem (the driver's or a coworker's)
 - c) available methods of intervening when an alcohol or drug problem is suspected,

including confrontation, referral to any employee assistance programs, and/or referral to management.

The policy may also include information on additional local government policies regarding the use or possession of alcohol or drugs that the local government has implemented under its own authority. For example, local governments may want to explain whether the local government will pay for all alcohol and drug tests, if the employees will pay for all the tests, or if the costs will be shared. Although these rules preempt any inconsistent state or local laws, state or local governments may have adopted policies that require funding of alcohol and drug tests and such policies would not be considered as inconsistent with these rules. A thorough, legal review of all state and local laws regarding alcohol and drug testing should be conducted before implementation of these rules begins.

The local government must ensure that each covered employee is required to sign a statement that he/she has received a copy of the policy described above. The local government keeps the original of the signed statement and may also provide a copy to the employee: