



# **Drug Free Workplace Policies and Procedures**

## Contents

<b>Contents</b> .....	2
A. Purpose .....	3
B. DRUG TESTING.....	5
1. TYPES OF TESTS .....	6
2. PROHIBITED DRUGS .....	9
3. COLLECTION PROCEDURES.....	9
4. DRUG TESTING LABORATORY STANDARDS AND PROCEDURES .....	10
5. REPORTING AND REVIEWING .....	10
C. ALCOHOL TESTING.....	10
1. TYPES OF TESTS .....	11
D. EDUCATION AND TRAINING.....	14
E. CONSEQUENCES OF A CONFIRMED POSITIVE DRUG AND OR ALCOHOL TEST RESULT AND/OR VERIFIED POSTIVE DRUG AND/OR ALCOHOL TEST RESULT .....	14
F. RETURN-TO-WORK AGREEMENT .....	15
G. VOLUNTARY DISCLOSURE OF DRUG AND/OR ALCOHOL USE.....	16
G. EXCEPTIONS.....	17
H. EMPLOYEE CONFIDENTIALITY/PROTECTION.....	17

## **A. PURPOSE**

The purpose and goal of this program is to send a clear message that the use of alcohol and drugs in the workplace is prohibited. Also, this program is to encourage our employees to voluntarily seek help with alcohol and drug problems.

The City of Lebanon, Tennessee recognizes that the use and abuse of drugs and alcohol is a serious problem that may involve the workplace. It is the intent of the City of Lebanon, TN 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 City of Lebanon, TN are public employees and must foster the public trust by preserving the employee and employer's 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 City of Lebanon, TN has adopted this drug and alcohol testing policy that balances our respect for individuals with the need to maintain an alcohol and drug free environment. This policy complies with the Federal Drug-Free Workplace Act of 1988, which ensures 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 license (CDL); Department 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 of 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 alcohol testing, which provides an extra safeguard for employees. The types of tests required are: pre-employment, transfer, reasonable suspicion, post-accident (post-incident), random (for safety-sensitive positions), return-to-duty, and follow-up.

The City of Lebanon, TN has no intention of interfering with the private lives of its employees unless involvement with alcohol or other drugs off the job affects job performance or public safety. 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 any legally prescribed medication that may impair his/her ability to safely perform the job before the employee goes on duty or performs any work. Any information obtained from the employee's disclosure will be maintained and treated in accordance with the ADA and other applicable laws.

It is the policy of the City of Lebanon, TN that the use of alcohol and illegal drugs by its employees, and impairment in the workplace due to the use of drugs and/or alcohol is prohibited

and will not be tolerated. Engaging in prohibited and/or illegal conduct may lead to disciplinary action. Prohibited and/or illegal conduct includes, but is not limited to:

1. being on duty or performing work in or on local government 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 on duty or while in or on local government 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 (or incident) if the employee's involvement has not been discounted as a contributing factor in the accident (or incident) or until the employee has successfully completed drug and/or alcohol testing procedures.

To educate the employees about the dangers of drug and/or alcohol abuse, the local government shall sponsor an annual information and education program for supervisors. Edit Training expectations train the trainer, etc. Information will be provided on the signs and symptoms of drugs and/or alcohol abuse; the effects of drug and/or alcohol abuse on an individual's health, work and personal life; the local government's policy regarding drugs and/or alcohol; and the availability of counseling. The Human Resources Director has been designated as the local government official responsible for answering questions regarding this policy and its implementation.

All City of Lebanon property may be subject to inspection at any time without notice. There is no expectation of privacy in such property. Property includes, but is not limited to: vehicles, desks, containers, files, cell phones, computers, and lockers. Employee-assigned lockers that are locked by the employee are also subject to inspection by the employee's supervisor in the presence of the employee after reasonable notice to the employee, unless such notice is waived by the supervisor, department-head or mayor.

### **Scope**

Provisions of this policy apply to all employees of the City of Lebanon, TN, except for random selection testing, which applies only to safety-sensitive positions. The policy also applies to all applicants who have been given a conditional offer of employment.

### **Consent Form**

One time only, employees and applicants will be asked to sign a consent form (attachment one) acknowledging the drug free workplace policy, authorizing tests and permitting release of test results to the laboratory, medical review officer (MRO), and the Human Resources Director or their designee. 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.

### **Compliance with Substance Abuse Policy**

Compliance with the 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 may be grounds for refusal to hire or for disciplinary action that may include termination of employment. The submission by an applicant or employee of a urine sample that is not his/her own or is adulterated will be grounds for refusal to hire or for disciplinary action that may include termination of employment.

### **Duty to Report Convictions**

Any employee convicted of violating a criminal drug statute must inform the director of his/her department and the Human Resources Director of such conviction (including pleas of guilty and *nolo contendere*) in writing within 48 hours of the conviction occurring. The affected employee shall be subjected to the disciplinary process as defined by Rule X in the Employee Handbook. Additionally, failure to inform Human Resources and the Department Head subjects the employee to disciplinary action up to and including termination of employment for the first offense. If appropriate, the local government will notify the federal contracting officer pursuant to applicable provisions of the Drug-Free Workplace Act and the Omnibus Transportation Employee Testing Act.

### **Drug Testing Identification Requirement**

When required to appear for drug testing, an applicant or employee must present a valid government issued photo ID to the appropriate collection personnel. Failure of an applicant to present a valid, government issued photo ID is equivalent to refusing to take the test, resulting in denial of employment. Failure of an employee to present a valid government-issued ID may result in disciplinary action.

## **B. DRUG TESTING**

Under the drug-free workplace policy there are several reasons for the implementation of drug tests and include but are not limited to the following:

1. Deter employees from abusing drugs and alcohol.
2. Prevent the hiring of individuals who use illegal drugs.
3. Provide early identification and referral of employees who have drug and/or alcohol problems.
4. Provide a safe workplace for other employees.
5. Ensure public safety and instill citizen confidence that employees are working safely.

The City of Lebanon, Tennessee's testing program will follow the Substance Abuse and Mental Health Services Administrations' (SAMHSA) mandatory guidelines for workplace drug testing which include having a MRO review the test. Testing will be done for those drugs identified in the SAMHSA guidelines (marijuana, cocaine, opiates, amphetamines and phencyclidine) for which drug laboratories are certified.

---

## 1. TYPES OF TESTS

### **Pre-employment**

All applicants for employment who have received a conditional offer of employment with the City of Lebanon, TN must submit to a drug test before receiving a final offer of employment.

### **Transfer/Promotion**

Employees transferring/being promoted to a safety sensitive position shall undergo drug testing. “Safety sensitive positions” include but are not limited to the following:

- All positions involving the maintenance of electrical lines
- All positions involving the maintenance of natural gas distribution
- Fire fighters
- Lifeguards
- Police officers
- Dispatch
- Evidence
- Positions having responsibility for the safety and care of children
- Positions involving the use of heavy equipment
- Positions requiring a commercial driver’s license
- Public works positions
- Risk Manager
- Waste water plant operators
- Water plant operators
- Codes officers
- Animal Control Officers
- Gasification Plant Operators

If the employee tests positive, the offer of the transfer or promotion will be withdrawn and the employee may be required to participate in rehabilitation as described in this policy.

### **Post-Accident/Post Incident Testing**

**(NOTE – All employees are subject to post-accident drug testing.)**

Following any workplace accident (incident) determined by supervisory personnel of the City of Lebanon, TN to have resulted in property or environmental damage, or personal injury, including but not limited to a fatality or human injury requiring medical treatment, or any 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 (incident) will be required to take a post-accident (post-incident) drug test.

Exceptions may include, but are not limited to the following:

- Employees stung by insects while performing their duties.
- Vehicle accidents involving legally parked city vehicles struck by citizen vehicles.

Exceptions will be evaluated on a case-by-case basis.

Post-accident (post-incident) testing shall be carried out within twelve (12) hours.

Following all workplace accidents (incidents) where drug testing is to be performed, unless otherwise specified by the department head, any affected employees who are ambulatory (able to walk) will be taken by supervision or designated personnel of the City of Lebanon, TN to the designated urine specimen collection site. In the event of an accident (incident) occurring after regular work hours, the employee(s) will be taken to the testing site as soon as is practical within the time limits indicated above. No employee shall consume drugs prior to completing the post-accident (post-incident) testing procedures. (manpower challenges). The City prefers individual employees do not drive themselves to drug and or alcohol tests. If there is no evidence of impairment and the department does not have available staff, the individual may drive themselves.

Any affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following an 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 MRO of the City of Lebanon, TN appropriate and necessary information or records that would indicate only if specified prohibited drugs (and what amounts) were found in the employee's system. Each employee shall grant consent at the implementation date of the substance abuse policy of the City of Lebanon, TN 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 perform post-accident (post-incident) drug testing within twenty-four (24) hours must be fully documented by the attending medical personnel.

**Testing Based on Reasonable Suspicion** (Note: All employees are subject to reasonable suspicion testing.)

Reasonable suspicion testing is also referred to as probable cause testing and is required for any employee where there is reasonable suspicion to believe the employee is using or is under the influence of drugs.

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. Possible causes requiring a testing of reasonable suspicion include specific observations concerning appearance, behavior, speech, body odors or performance. 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 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 Human Resources Director or their designee within two 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 may be monitored or observed.

### **Random Testing**

Random testing shall be unannounced. Every employee in the random testing pool has an equal chance of being chosen for testing every time a random selection is drawn. Only employees of the City of Lebanon, TN holding safety sensitive positions are subject to random drug testing.

“Safety sensitive positions” include but are not limited to the following:

- All positions involving the maintenance of electrical lines
- All positions involving the maintenance of natural gas distribution
- Fire fighters
- Lifeguards
- Police officers
- Dispatch
- Evidence
- Positions having responsibility for the safety and care of children
- Positions involving the use of heavy equipment
- Positions requiring a commercial driver’s license
- Public works positions
- Risk Manager
- Waste water plant operators
- Water plant operators
- Codes officers
- Animal Control Officers
- Gasification Plant Operators

It is the policy of the City of Lebanon, TN to annually perform random tests for drugs on at least twenty-five percent (25%) of the total number of drivers required to possess or obtain a commercial driver’s license (CDL) and individuals assigned to safety-sensitive positions.

A minimum of fifteen (15) minutes and a maximum of two (2) 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 and occur with regular 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 to produce a specimen (i.e., vacation, leave of absence, sick day, out of town, work-related causes, etc.) on the date random testing occurs, the City of Lebanon may omit that employee from random testing or await the employee’s return to work.

### **Return-to-Duty and Follow-Up**



Any employee of the City of Lebanon, TN who has violated the prohibited drug conduct standards must submit to a return-to-duty test. Follow-up tests, also referred to as post rehabilitation testing, will be unannounced, and at least two (2) tests will be conducted in the first twelve (12) months after an employee returns to duty. Follow-up testing may be extended for up to sixty (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 employees returning from leave or special assignment in excess of three months. In this situation, the employee will not be required to pay for the testing.

---

## 2. PROHIBITED DRUGS

The substances for which testing is commonly performed are those that the National Institute for Drug Abuse (NIDA) designated as “illegal” drugs for purposes of the Federal Drug Testing programs. All drug results will be reported to the MRO. If verified by the MRO, they will be reported to the Human Resources Director or their designee. The following is a list of drugs for which tests will be routinely conducted:

1. amphetamines;
2. marijuana;
3. cocaine;
4. opiates;
5. phencyclidine (PCP);

The Lebanon, TN may test for additional substances listed under the Tennessee Drug Control Act of 1989 (as amended).

---

## 3. 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 other designated personnel of the City of Lebanon, TN to a drug test collection facility selected by the Lebanon, TN where a urine sample will be taken from the employee in private. 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 the chain-of-custody form to accompany the sample to a laboratory selected by the City of Lebanon, TN to perform the analysis on collected urine samples. The chain-of-custody form is required to prove that a sample that tested positive for drugs or alcohol is the sample from the employee who is being tested. A diluted urine sample shall be handled as follows:

- A diluted positive sample will be treated as a positive sample.
- A diluted negative sample shall be referred to the MRO to determine if there is a medically established cause. Human Resources may recommend an observed re-test.
- A second negative dilute with no medically established cause shall be interpreted as a refusal to consent.

---

#### 4. DRUG TESTING LABORATORY STANDARDS AND PROCEDURES

The Department of Health and Human Services (DHHS)/Substance Abuse and Mental Health Services Administration (SAMHSA) has established standardized procedures and cutoff levels that are followed by several federal agencies, DOT and various private and governmental regulations. All urine samples will be sent to an authorized laboratory that is certified and monitored by the federal Department of Health and Human Services (DHHS).

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 determined a positive test result, the employee will be notified and the MRO will notify the Human Resources Director or their designee.

---

#### 5. REPORTING AND REVIEWING

The City of Lebanon, TN will designate a 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.

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 City of Lebanon, TN.
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 the testing data and limit access to such information to the following: the respective department head, the Human Resources Director, and the employee.
4. Neither the City of Lebanon, TN., 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 City of Lebanon, Tennessee’s attorney.

### **C. ALCOHOL TESTING**

An applicant or employee must carry and present a valid government issued photo ID to the appropriate personnel during testing. Failure to present photo identification is equivalent to

refusing to take the test. “Alcohol test” means an analysis of breath or blood, or any other analysis which determines the presence, absence or level of alcohol as authorized by the relevant regulations of the United States Department of Transportation.

---

## 1. TYPES OF TESTS

**Post –Accident/Post Incident Testing** Note: All employees are subject to post-accident alcohol testing.)

Following any workplace accident (incident) determined by supervisory personnel of the City of Lebanon, TN to have resulted in an injury or property damage, 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 violating 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) under the following circumstances.

Following all workplace accidents (incidents) where alcohol testing is to be performed, unless otherwise specified by the Director of Human Resources or their designee affected employees who are ambulatory will be taken to an approved breath alcohol test site (see attachment three) for a breath alcohol test within two hours following the accident:

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 City of Lebanon, TN and may result in disciplinary action.

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 MRO of the Lebanon, TN appropriate and necessary information or records that would indicate only whether 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 Lebanon, TN 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.

### **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 City of Lebanon, TN deciding to subject any employee to alcohol testing based on reasonable suspicion shall document their specific reasons and observations in writing to the Director of Human Resources or their designee, immediately before the decision to test.

### **Random Testing**

Only employees of the City of Lebanon, TN assigned to safety-sensitive positions are subject to random alcohol testing. "Safety sensitive positions" include but are not limited to the following:

- All positions involving the maintenance of electrical lines
- All positions involving the maintenance of natural gas distribution
- Fire fighters
- Lifeguards
- Police officers
- Dispatch
- Evidence
- Positions having responsibility for the safety and care of children
- Positions involving the use of heavy equipment
- Positions requiring a commercial driver's license
- Public works positions
- Risk Manager
- Waste water plant operators
- Water plant operators
- Codes officers
- Animal Control Officers
- Gasification Plant Operators

Annually, at least ten percent (10%) of employees assigned to safety-sensitive positions will submit to random alcohol testing.

A minimum of fifteen (15) minutes and a maximum of two (2) 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 regular 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 to produce a specimen (i.e., vacation, sick day, out of town, work-related causes, etc.) on the date random testing occurs, the Lebanon, TN may omit that employee from random testing or await the employee's return to work.

### **Return-to-Duty and Follow-Up**

Any employee of the City of Lebanon, TN 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 two (2) tests will be conducted in the first twelve (12) months after an employee returns to duty. Follow-up testing may be extended for up to sixty (60) months following return to duty.

## **2. ALCOHOL TESTING PROCEDURES**

All breath alcohol testing conducted for the City of Lebanon, TN will be performed using evidential breath testing (EBT) equipment and personnel approved by the National Highway Traffic Safety Administration (NHTSA). (NOTE – the City of Lebanon's own public safety department cannot do this testing unless the test is required because of a traffic accident [incident].)

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

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 will be considered negative. If the result is greater or equal to 0.04 BAL, the result will be recorded and witnessed, and the test shall proceed to Step Two.
2. **Step Two**: Fifteen minutes will 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 will 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 will 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.

Any breath alcohol level found 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 0.02 percent or less before returning to duty with the Lebanon, TN.

All breath alcohol test results shall be recorded by the technician and shall be witnessed by the tested employee.

The completed breath alcohol test form shall be submitted to the City of Lebanon's, Director of Human Resources or their designee.

## **D. EDUCATION AND TRAINING**

### **Supervisory Personnel Who Will Determine Reasonable Suspicion Testing**

Supervisory personnel who will determine whether an employee must be tested based on reasonable cause will have been trained 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.

Annually, City of Lebanon employees will be trained in the importance of a drug and alcohol-free workplace and the elements of this procedure.

### **Distribution of Information**

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

1. Informational material on the effects of drug and alcohol abuse;
2. An existing community services hotline number, available drug counseling, rehabilitation, and employee assistance programs for employee assistance;
3. The City of Lebanon's policy regarding the use of prohibited drugs and/or alcohol; and
4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

## **E. CONSEQUENCES OF A CONFIRMED POSITIVE DRUG AND OR ALCOHOL TEST RESULT AND/OR VERIFIED POSITIVE DRUG AND/OR ALCOHOL TEST RESULT**

One of the goals of the City of Lebanon's drug-free workplace program is to encourage employees to voluntarily seek help with alcohol and/or drug problems. If, however, an employee violates the policy, the consequences may result in disciplinary action. Job applicants will be denied employment with the City of Lebanon, TN if their initial positive pre-employment drug test results have been confirmed and/or 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. The City of Lebanon, TN reserves the right to allow employees to participate in an education and/or treatment program approved by the City of Lebanon, Tennessee's, 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.

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 City of Lebanon, Tennessee's, Employee Assistance Program or other program sanctioned by the City of Lebanon, Tennessee, and thereafter refrains from violating the City of Lebanon, Tennessee's policy on drug and alcohol abuse. However, voluntary identification will not prevent disciplinary action for the violation of the City of Lebanon, Tennessee's drug and alcohol testing policies and regulations, nor will it relieve the employee of any requirements for return to duty testing. (See Section G – Voluntary Disclosure).

Refusing to submit to an alcohol or drug test means that an employee: (1) fails to provide adequate breath for testing without a valid medical explanation after he/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 drug 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 City of Lebanon, TN indicating a refusal to test.

## **F. RETURN-TO-WORK AGREEMENT**

Following a violation of the drug-free workplace policy, an employee may be offered an opportunity to participate in rehabilitation. In such cases, the employee must sign and abide by the terms set forth in a return-to-work agreement as a condition of continued employment. A return-to-work agreement (RTWA) is a written document that sets forth the expectations that the City of Lebanon, TN and employee assistance/medical professionals have for an employee who has completed mandated treatment for alcohol and/or drug issues. It also sets forth the consequences if the expectations are not met. This agreement will be used if an employee has violated the drug-free workplace policy and has been provided the opportunity to participate in rehabilitation as a condition of continued or re-employment, or voluntarily identifies as a drug user, obtains counseling and rehabilitation through the City of Lebanon, Tennessee's Employee Assistance Program or another program sanctioned by the City of Lebanon, TN.

### **Sample Return-to-work Agreement**

This Return-to-work Agreement is necessitated because:

1. The employee tested positive for drugs/alcohol.
2. The employee is returning from a voluntary drug/alcohol treatment program.
3. The employer is giving the employee a "last chance" to work free of alcohol or drugs.
  - a. The employee acknowledges receipt of the organization's drug and alcohol policy and agrees to comply with all provisions.
  - b. The employee has voluntarily signed the Release of Information form allowing the City of Lebanon, TN to receive information from medical professionals regarding continuing care recommendations and compliance.
4. The employee agrees to comply with all aspects of the medical professional's recommendations.

5. The employee agrees to be subject to unannounced follow-up testing for a period up to five (5) years.
6. The employee agrees that the organization will monitor compliance by receiving updates from medical professionals regarding compliance with continuing care recommendations. The employee will maintain documentation of attendance.
7. The employee agrees to abstain from the use of alcohol and/or other drugs except when prescribed by a physician who has been informed of the employee's difficulty with substance abuse. It is the employee's responsibility to inform the proper supervisory personnel of his/her use of any legally prescribed medication that may impair his/her ability to safely perform the job before the employee goes on duty or performs any work.
8. The employee agrees that all costs of treatment and monitoring not covered by the employee's insurance plan are the financial responsibility of the employee.
9. If absence from work is required as a part of rehabilitation, it will be regarded as FML if the employee is eligible. If the employee is not eligible for FML, the employee will be required to take sick leave, vacation/annual leave, unpaid leave, or some combination of leave for the time required for rehabilitation.

## **G. VOLUNTARY DISCLOSURE OF DRUG AND/OR ALCOHOL USE**

If an employee of the City of Lebanon, TN 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 manager, department-head or the Director of Human Resources in private.

Such voluntary desire for help with a substance abuse problem may be honored by the City of Lebanon, TN. If substance abuse treatment is required, the employee will be removed from service pending completion of the treatment. Voluntary disclosure must occur before an employee is notified of or otherwise becomes subject to a pending drug and/or alcohol test.

Affected employees of the City of Lebanon are entitled to up to thirty (30) consecutive calendar days for initial substance abuse treatment as follows:

1. The employee must use all vacation, sick and compensatory time available/ all sick time available/ all vacation time available/ all compensatory time available).
2. In the event accumulated annual/vacation, sick, and compensatory time is insufficient to provide the medically prescribed and needed treatment up to a maximum of thirty (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.

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) monitoring the employee's treatment. 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 the Director of Human Resources of the City of Lebanon, TN will consider each case individually and set forth final conditions of reinstatement to 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 or alcohol test under this policy will result in disciplinary action up to, and including, dismissal.

These provisions apply to voluntary disclosure of a substance abuse problem by an employee of the City of Lebanon, TN. Voluntary disclosure provisions do not apply to applicants. Employees testing positive during drug and/or alcohol testing under this policy are subject to disciplinary action.

## **G. EXCEPTIONS**

This policy does not apply to lawful possession, use or provision of alcohol and/or drugs by employees in the context of authorized work assignments (i.e., undercover police enforcement, Intoxilyzer demonstrations). In all cases, it is the individual employee's responsibility to ensure that job performance is not adversely affected by the lawful possession, use, or provision of alcohol and/or drugs. Employees who are taking prescription medication which may affect or impair their performance on the job shall discuss this with a representative of Human Resources.

The Human Resources Department will work with the employee's Department Head to assess the type(s) of reasonable accommodations which may be necessary to allow the individual to perform the essential functions of their job and to provide such necessary reasonable accommodations to a qualified individual with a disability. Nothing herein shall be construed to require the provision of reasonable accommodations if doing so will impose an undue hardship on the City or a direct threat to the safety of himself/herself or others.

## **H. EMPLOYEE CONFIDENTIALITY/PROTECTION**

The information received by the City of Lebanon, TN through the drug-free workplace program will be maintained as confidential to the extent provided by law.