

Ordinance #258

An Ordinance by the Mayor and Aldermen of the Town of Ashland City, Tennessee to amend a certain portion of Ordinance #120 Section V – Narcotics and Intoxicating Liquors.

BE IT ORDAINED by the Mayor and Aldermen of the Town of Ashland City, Tennessee that Ordinance # 120 Section V. – Narcotics and Intoxicating Liquors be changed as follows:

See attached.

This Ordinance shall take effect 20 days after final passage the public welfare requiring it.

1st reading 6-11-02

Public hearing 7-9-02

2nd reading 7-9-02



Gary Norwood, Mayor



Phyllis Schaeffer, City Recorder

SECTION V - NARCOTICS AND INTOXICATING LIQUORS

A. PURPOSE

The Town of Ashland City 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 Ashland City 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 Ashland City 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 Ashland City has adopted this drug and alcohol testing policy effective 7-9-02. This policy complies with the: 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); 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 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 drug testing, which provides an extra safeguard for employees. The types of tests that may be 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 Ashland City that the use of drugs by its employees and impairment in the workplace due to 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 drugs at any time and of alcohol while on duty or 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

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.

D. 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.

E. GENERAL RULES

These are the general rules governing the Town of Ashland City'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 employees go 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 on duty or while in or on Town property.
3. All Town of Ashland City 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 five 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.

F. PROHIBITED SUBSTANCES

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

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. This applies to all Town of Ashland City employees.

Post-accident (post-incident) testing shall be carried out within 32 hours following the accident (incident). (Note - DOT regulations allow up to 32 hours for drug tests. A lesser time provision is optional.) 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 Ashland 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/illegitimate 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.

(1.) 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 Ashland City to the designated urine specimen collection site within 32 hours following the accident. (Note - DOT regulations allow up to 32 hours for drug tests. A lesser time provision is optional.) 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 Ashland City and shall result in administrative action up to and including termination of employment.

(2.) 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 Ashland City

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 Ashland City may omit that employee from that random testing or await the employee's return to work.

f. Return-to-Duty and Follow-Up

Any employee of the Town of Ashland City 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 in a position requiring 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.

2. Drug Test 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 Ashland City to a drug test collection facility selected by the City (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 Ashland City to perform the analysis on collected urine samples.

3. Drug Test 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

H. 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.

1. Types of Alcohol Tests

Employees may be required to submit to alcohol testing under four separate conditions:

a. Post-Accident/Post-Incident Testing

Following any workplace accident (incident) determined by supervisory personnel of the Town of Ashland City 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 immediate medical treatment away from the scene, 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. This applies to all employees of the Town of Ashland City.

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

(1). 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 Ashland City 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 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 appearing for alcohol testing shall be considered a refusal to cooperate with the substance abuse program of the Town of Ashland City and shall result in administrative action up to and including termination of employment.

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

An affected employee who is seriously injured, non-ambulatory, and/or under

A minimum of 15 minutes 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, etc.) to be tested on the date random testing occurs, the Town of Ashland City may omit that employee from that random testing or await the employee's return to work.

d. Return-to-Duty and Follow-Up

Any employee of the Town of Ashland City 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 required to possess 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.

2. Alcohol Testing Procedures

All breath alcohol testing conducted for the Town of Ashland City shall be performed using evidential breath testing (EBT) equipment and personnel approved by the National Highway Traffic Safety Administration (NHTSA). The City's police 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:

a. 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. Distribution of Information

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

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

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

Job applicants subject to pre-employment drug testing will be denied employment with the Town of Ashland City if their initial positive pre-employment drug 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 referral to the Substance Abuse Professional. The employee may be subject to disciplinary action up to and including termination. Factors to be considered in determining the appropriate disciplinary response include: 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 in an education and/or treatment program 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 city's Employee

the context of authorized work assignments (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.

M. MODIFICATION OF POLICY

This statement of policy may be revised by the Town of Ashland City 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 Ashland City.

N. 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 alcohols 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.

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.

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.

Refuse to Submit - Refusing to submit to an alcohol or controlled substances 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 substances 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.

Safety Sensitive Police and Fire Employees - Includes all police officers, firefighters, and dispatchers, excluding volunteer firefighters.

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/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 substances-related disorders.

Safety-Sensitive employees – any employee of the Town of Ashland City that drives any city vehicle, truck or equipment or works with chemicals and machinery.

Ordinance #257

WHEREAS, the Town of Ashland City, Tennessee adopting a budget amendment for the fiscal year July 1, 2000 through June 30, 2001 that,

SECTION 1. A budget amendment consisting of the available funds and appropriations be adopted as presented in the 00/01 audit report for the following funds:

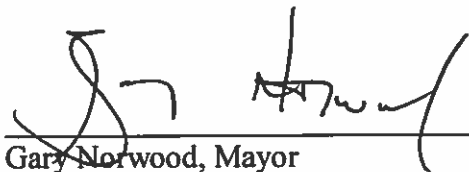
	Beginning balance	Ending balance
General Fund	3,857,096	4,593,666
Street Aid Fund	132,894	141,720
Drug Fund	2,203	2,727
Water/Sewer Fund	1,953,626	2,169,931

NOW, THEREFORE, be it ordained by the Council of the Town of Ashland City, Tennessee that this ordinance shall become effective 20 days after final passage the public welfare requiring it.

1st reading 6-11-02

Public Hearing 7-9-02

2nd reading 7-9-02



Gary Norwood, Mayor



Phyllis Schaeffer, City Recorder