

PERSONNEL COMMITTEE AGENDA
Monday, January 8, 2018 – 6:20 p.m.
(or immediately following previously scheduled meeting)
Police Department – 933 Michigan Avenue
[A quorum of the City Council may attend this meeting]

Discussion and possible action on:

1. Updated Transit Drug and Alcohol Testing Policy.
2. Updated DOT Drug and Alcohol Testing Policy.
3. Adjournment.

Any person who has special needs while attending this meeting or needs agenda materials for this meeting should contact the City Clerk as soon as possible to ensure a reasonable accommodation can be made. The City Clerk can be reached by telephone at (715) 346-1569, or by mail at 1515 Strongs Avenue, Stevens Point, WI 54481.

Copies of ordinances, resolutions, reports and minutes of the committee meetings are on file at the office of the City Clerk for inspection during normal business hours from 7:30 a.m. to 4:00 p.m.

December 28, 2017

PERSONNEL COMMITTEE NOTES
1/8/2018 Agenda

Due to recent recognition of the danger of opioids, the Federal Transit Authority (FTA – which governs our Transit testing program) and the Federal Motor Carrier Safety Administration (FMCSA – which governs our CDL Driver testing program) are requiring amendments to our testing programs.

We have provided this information to employees covered by these policies in advance of the change.

Included in the packet are redlined versions of both policies. With regard to the Transit policy, we also updated the employee list to reflect staff titles under the merger with Portage County. In addition, a change was made to update our MRO (Medical Review Officer) change.

Please feel free to contact me with any questions or concerns.

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4 **DRUG AND ALCOHOL TESTING POLICY**
5 **CITY OF STEVENS POINT**
6 **Adopted April 17, 2017**
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9 **A. PURPOSE**

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11 The City of Stevens Point provides ~~both public~~ fixed route **public** transit and
12 para-transit services for the residents of the City of Stevens Point, and the Village of
13 Whiting and Crossroad Commons in Plover. **In addition, the City provides rural fixed**
14 **route bus service, volunteer driver service and Taxi/SMV services to Portage**
15 **County residents.** Part of our mission is to ensure that this service is delivered safely,
16 efficiently, and effectively by establishing a drug and alcohol-free work environment, and
17 to ensure that the workplace remains free from the effects of drugs and alcohol in order
18 to promote the health and safety of employees and the general public. In keeping with
19 this mission, the City of Stevens Point declares that the unlawful manufacture,
20 distribution, dispensing, possession, or use of controlled substances or misuse of
21 alcohol is prohibited for all employees.
22

23 Additionally, the purpose of this policy is to establish guidelines to maintain a
24 drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of
25 1988, and the Omnibus Transportation Employee Testing Act of 1991. This policy is
26 intended to comply with all applicable Federal regulations governing workplace anti-
27 drug and alcohol programs in the transit industry. Specifically, the Federal Transit
28 Administration (FTA) of the U.S. Department of Transportation has published 49 CFR
29 Part 655, as amended, that mandate urine drug testing and breath alcohol testing for
30 safety-sensitive positions, and prohibit performance of safety-sensitive functions when
31 there is a positive test result. The U. S. Department of Transportation (USDOT) has
32 also published 49 CFR Part 40, as amended, that sets standards for the collection and
33 testing of urine and breath specimens.
34

35 Copies of Parts 655 and 40 are available in the Transit Department and can be
36 found on the internet at the Federal Transit Administration (FTS) Drug and Alcohol
37 Program website, <http://transit-safety.fta.dot.gov/DrugAndAlcohol/>.
38

39 Any provisions set forth in this policy that are included under the sole authority of
40 the City of Stevens Point and are not provided under the authority of the above named
41 Federal regulations are underlined.
42

43 **B. APPLICABILITY**
44

45 This Drug and Alcohol Testing Policy applies to all safety-sensitive employees
46 (full- or part-time) when performing any transit-related business. A safety-sensitive
47 function is any duty related to the safe operation of public transportation service
48 including the operation of a revenue service vehicle (whether or not the vehicle is in
49 revenue service), maintenance of a revenue service vehicle or equipment used in
50 revenue service Maintenance functions include the repair, overhaul, and rebuild of
51 engines, vehicles and/or equipment), security personnel who carry firearms, dispatchers
52 or person controlling the movement of revenue service vehicles and any other transit
53 employee who operates a non-revenue service vehicle that requires a Commercial
54 Drivers License (revenue or non-revenue vehicle operation). A list of safety-sensitive
55 positions who perform one or more of the above mentioned duties are provided in
56 Attachment B.

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58 C. DEFINITIONS

59
60 *Accident* means an occurrence associated with the operation of a revenue
61 service vehicle even when not in revenue service or a vehicle which requires a
62 Commercial Drivers License to operate, if as a result--

- 63
64 (1) An individual dies;
65 (2) An individual suffers a bodily injury and immediately receives medical
66 treatment away from the scene of the accident; or,
67 (3) One or more vehicles incur disabling damage as the result of the
68 occurrence and is transported away from the scene by a tow truck or other
69 vehicle. For purposes of this definition, *disabling damage* means damage,
70 which precludes departure of any vehicle from the scene of the
71 occurrence in its usual manner in daylight after simple repairs. Disabling
72 damage includes damage to vehicles that could have been operated but
73 would have been further damaged if so operated, but does not include
74 damage which can be remedied temporarily at the scene of the
75 occurrence without special tools or parts, tire disablement without other
76 damage even if no spare tire is available, or damage to headlights,
77 taillights, turn signals, horn, mirrors or windshield wipers that makes them
78 inoperative.

79
80 *Adulterated specimen* A specimen that contains a substance that is not
81 expected to be present in human urine, or contains a substance expected to be present
82 but is at a concentration so high that it is not consistent with human urine.

83
84 *Alcohol* means the intoxicating agent in beverage alcohol, ethyl alcohol, or other
85 low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy,
86 food, preparation or medication.

87
88 *Alcohol Concentration* is expressed in terms of grams of alcohol per 210 liters of
89 breath as measured by a test under 49 CFR Part 40.

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Aliquot. A fractional specimen used for testing. It is taken as a sample representing the whole specimen.

Canceled Test is a drug test that has a problem identified that cannot be or has not been corrected or which is canceled. A canceled test is neither positive or negative.

Covered Employee means an employee who performs a safety-sensitive function including an applicant or transferee whom will be hired to perform a safety-sensitive function (See Attachment B for a list of covered employees), and other employees, applicants, or transferee that will not perform a safety-sensitive function.

Designated Employer Representative (DER). This is an employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation process. The DER also receives test results and other communications for the employer.

Department of Transportation (DOT). For the purposes of Drug and Alcohol oversight, DOT is the department of the federal government which includes the Federal Administration, Federal Railroad Administration, Federal Highway Administration, Federal Motor Carriers' Safety Administration, Pipeline and Hazardous Materials Safety Administration, United States Coast Guard, and the Office of the Secretary of Transportation.

Dilute specimen. A specimen with creatinine and specific gravity values that are lower than expected for human urine.

Disabling damage means damage, which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage, which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn or windshield wipers that makes them inoperative.

Evidentiary Breath Testing Device (EBT). A device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations. Approved devices are listed on the National Highway Traffic Safety Administration (NHTSA) conforming products list.

Initial Drug Test (Screening Drug Test). The test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

135 *Initial Specimen Validity Test.* The first test used to determine if a urine specimen
136 is adulterated, diluted, substituted or invalid.

137
138 *Invalid Result.* The result reported by an HHS-certified laboratory in accordance
139 with the criteria established by the HHS Mandatory Guidelines when a positive,
140 negative, adulterated, or substituted result cannot be established for a specific drug or
141 specimen validity test.

142
143 *Laboratory.* Any U.S. laboratory certified by HHS under the National Laboratory
144 Certification program as meeting standards of Subpart C of the HHS Mandatory
145 Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign
146 laboratories, a laboratory approved for participation by DOT under this part.

147
148 *Limit of Detection (LOD).* The lowest concentration at which a measurement can
149 be identified, but (for quantitative assays) the concentration cannot be accurately
150 calculated.

151
152 *Limit of Quantitation.* For quantitative assays, the lowest concentration at which
153 the identity and concentration of the measurement can be accurately established.

154
155 *Medical Review Officer (MRO).* A licensed physician (medical doctor or doctor
156 of osteopathy) responsible for receiving laboratory results generated by the drug testing
157 program who has knowledge of substance abuse disorders, and has appropriate
158 medical training to interpret and evaluate an individual's confirmed positive test result,
159 together with his/her medical history, and any other relevant bio-medical information.

160
161 *Negative Dilute.* A drug test result which is negative for the five drug/drug
162 metabolites but has a specific gravity value lower than expected for human urine.

163
164 *Negative Result.* The result reported by an HHS-certified laboratory to an MRO
165 when a specimen contains no drug or the concentration of the drug is less than the
166 cutoff concentration for the drug or drug class and the specimen is a valid specimen.

167
168 *Non-negative test result.* A urine specimen that is reported as adulterated,
169 substituted, invalid, or positive for drug/drug metabolites.

170
171 *Oxidizing Adulterant.* A substance that acts alone or in combination with other
172 substances to oxidize drugs or drug metabolites to prevent the detection of the drug or
173 metabolites, or affects the reagents in either the initial or confirmatory drug test.

174
175 *Performing (a safety-sensitive function).* A covered employee is considered to
176 be performing a safety-sensitive function during any period in which he or she is actually
177 performing, ready to perform, or immediately available to perform such functions.

178

179 *Positive result.* The result reported by an HHS-Certified Laboratory when a
180 specimen contains a drug or drug metabolite equal or greater to the cutoff
181 concentrations.

182
183 *Prohibited drug.* Identified as marijuana, cocaine, ~~opiates~~ **opioids**,
184 amphetamines, or phencyclidine at levels above the minimum thresholds specified in 49
185 CFR Part 40, as amended.

186
187 *Reconfirmed.* The result reported for a split specimen when the second
188 laboratory is able to corroborate the original result reported for the primary specimen.

189
190 *Rejected for Testing.* The result reported by an HHS-Certified laboratory when
191 no tests are performed for specimen because of a fatal flaw or correctable flaw that has
192 not been corrected.

193
194 *Revenue Service Vehicles.* All transit vehicles that are used for passenger
195 transportation service or that require a CDL to operate. Includes all ancillary vehicles
196 used in support of the transit system.

197
198 *Safety-sensitive functions.* A safety-sensitive function is any duty related to the
199 safe operation of public transportation service including: (a) the operation of a transit
200 revenue service vehicle (whether or not the vehicle is in revenue service). Volunteers
201 are considered safety sensitive and subject to testing if they are required to hold a CDL,
202 or remunerated for service in excess of their actual expense; (c) Maintenance of a
203 revenue service vehicle or equipment used in revenue service. Maintenance functions
204 include the repair, overhaul and rebuild of engines, vehicles and/or equipment; (d)
205 dispatchers or person controlling the movement of revenue service vehicles, and any
206 other transit employee who operates a non-revenue service vehicle that requires a
207 Commercial Driver's License, and (e) Security personnel who carrying a firearm.

208
209 *Split Specimen Collection.* A collection in which the urine collected is a divided
210 into two separate bottles, the primary specimen (Bottle A) and the split specimen (Bottle
211 B).

212
213 *Substance Abuse Professional (SAP).* A licensed physician (medical doctor or
214 doctor of osteopathy) or licensed or certified psychologist, social worker, employee
215 assistance professional, or drug and alcohol counselor certified by the National
216 Association of Alcoholism and Drug Abuse Counselors Certification Commission or by
217 the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse
218 (ICRC), or by the National Certified Counselors, Inc. and Affiliates/Master Addictions
219 Counselor (NBCC) with knowledge of and clinical experience in the diagnosis and
220 treatment of drug and alcohol related disorders.

221

222 *Substituted specimen.* A urine specimen with creatinine and specific gravity
223 values that are so diminished or so divergent that they are not consistent with normal
224 human urine.

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226
227 *Verified negative test.* A drug test result reviewed by a medical review officer
228 and determined to have no evidence of prohibited drug use above the minimum cutoff
229 levels established by the Department of Health and Human Services (DHHS).

230
231 *Verified positive test.* A drug test result reviewed by a medical review officer and
232 determined to have evidence of prohibited drug use above the minimum cutoff levels
233 specified in 49 CFR Part 40 as revised.

234
235 *Validity testing.* The evaluation of the specimen to determine if it is consistent
236 with normal human urine. Specimen validity testing will be conducted on all urine
237 specimens provided for testing under DOT authority. The purpose of validity testing is to
238 determine whether certain adulterants or foreign substances were added to the urine, if
239 the urine was diluted, or if the specimen was substituted.

240 241 242 D. EDUCATION AND TRAINING

243
244 Every covered employee will receive a copy of this policy and will have ready
245 access to the corresponding federal regulations including 49 CFR Part 655, as
246 amended and Part 40, as amended. All covered employees will undergo a minimum of
247 60 minutes of training on the signs and symptoms of drug use including the effects and
248 consequences of drug use on personal health, safety, and the work environment. The
249 training also includes manifestations and behavioral cues that may indicate prohibited
250 drug use.

251 All supervisory personnel or company officials who are in a position to determine
252 employee fitness for duty will receive 60 minutes of reasonable suspicion training on the
253 physical, behavioral, and performance indicators of probable drug use and 60 minutes
254 of additional reasonable suspicion training on the physical, behavioral, speech, and
255 performance indicators of probable alcohol misuse.

256
257 Information on the signs, symptoms, health effects, and consequences of alcohol
258 misuse is presented in Attachment C of this policy.

259
260 Stevens Point Transit will display and distribute to every covered employee
261 informational material and if available, display and distribute a community service hot-
262 line telephone number for employee assistance.

263 264 E. PROHIBITED SUBSTANCES

265
266 Prohibited substances addressed by this policy include the following:

267
268 (1) Illegally Used Controlled Substance or Drugs under the Drug-Free
269 Workplace Act of 1988. Use of any drug or any substance identified in Schedule I
270 through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as
271 further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times in the
272 workplace unless a legal prescription has been written for the substance. This includes,
273 but is not limited to: marijuana, amphetamines, ~~opiates~~ **opioids**, phencyclidine (PCP
274 and cocaine, as well as any drug not approved for medical use by the U.S. Drug
275 Enforcement Administration or the U.S. Food and Drug Administration. Illegal use
276 includes use of any illegal drug, misuse of legally prescribed or over-the-counter drugs,
277 and use of illegally obtained prescription drugs. Also, the medical use of marijuana, or
278 the use of hemp related products, as which cause drug or drug metabolites to be
279 present in the body above the minimum thresholds is a violation of this policy.

280
281 Federal Transit Administration drug testing regulations (49 CFR Part 655, as
282 amended) require that all covered employees be tested for marijuana, cocaine,
283 amphetamines (including methamphetamine, **methylenedioxyamphetamine**
284 **[MDA]** and ecstasy), ~~opiates~~ **opioids** (including **codeine, hydrocodone,**
285 **oxycodone, morphine, hydromorphone, oxymorphone and heroin) and**
286 **phencyclidine (PCP)**. Illegal use of these five drugs is prohibited at all times
287 and thus, covered employees may be tested for these drugs anytime that they
288 are on duty.

289
290 (2) Legal Drugs: The appropriate use of legally prescribed drugs and non-
291 prescription medications is not prohibited. However, the use of any substance
292 which carries a warning label that indicates that mental functioning, motor skills,
293 or judgment may be adversely affected must be reported to a City Transit
294 Department supervisor and the employee is required to provide a written release
295 from his/her doctor or pharmacist indicating that the employee can perform
296 his/her safety-sensitive functions.

297
298 (3) Alcohol: The use of beverages containing alcohol (including any
299 mouthwash, medication, food, candy) or any other substances such that cause
300 alcohol to be present in the body while performing safety-sensitive job functions
301 is prohibited. A reasonable suspicion or random alcohol test can only be
302 performed on a covered employee under 49 CFR Part 655, as amended just
303 before, during, or just after the performance of safety-sensitive job functions.
304 Under City of Stevens Point's authority, an alcohol test can be performed any
305 time a covered employee is on duty.

306 307 F. PROHIBITED CONDUCT

308
309 (1) All covered employees are prohibited from reporting for duty or remaining
310 on duty any time there is a quantifiable presence of a prohibited drug in
311 the body above the minimum thresholds defined in 49 CFR PART 40, as
312 amended.

- 313 (2) Each covered employee is prohibited from consuming alcohol while
314 performing safety-sensitive job functions or while on-call to perform safety-
315 sensitive job functions. If an on-call employee has consumed alcohol,
316 they must acknowledge the use of alcohol at the time that they are called
317 to report for duty. The covered employee will subsequently be relieved of
318 his/her on-call responsibilities and subject to discipline for not fulfilling
319 his/her on-call responsibilities.
- 320 (3) The Transit Department shall not permit any covered employee to perform
321 safety-sensitive functions if it has actual knowledge that the employee is
322 using alcohol.
- 323 (4) Each covered employee is prohibited from reporting to work or remaining
324 on duty requiring the performance of safety-sensitive functions while
325 having an alcohol concentration of 0.02 or greater regardless of when the
326 alcohol was consumed.
- 327 (5) No covered employee shall consume alcohol for eight (8) hours following
328 involvement in an accident or until he/she submits to the post-accident
329 drug/alcohol test, whichever occurs first.
- 330 (6) No covered employee shall consume alcohol within four (4) hours prior to
331 the performance of safety-sensitive job functions.
- 332 (7) The City of Stevens Point under its own authority also prohibits the
333 consumption of alcohol during lunch periods, rest breaks, split shift
334 breaks, or anytime the employee is on duty or in uniform.
- 335 (8) Consistent with the Drug-free Workplace Act of 1988, all City of Stevens
336 Point employees are prohibited from engaging in the unlawful
337 manufacture, distribution, dispensing, possession, or use of prohibited
338 substances in the work place including Transit Department premises,
339 transit vehicles, while in uniform or while on City of Stevens Point Transit
340 business.

341
342 G. DRUG STATUTE CONVICTION

343
344 Consistent with the Drug Free Workplace Act of 1988, all employees are required
345 to notify the City of Stevens Point Transit Department management of any criminal drug
346 statute conviction for a violation occurring in the workplace within five days after such
347 conviction. Failure to comply with this provision shall result in disciplinary action as
348 defined in Section J of this policy.

349
350 H. TESTING REQUIREMENTS

351
352 Analytical urine drug testing and breath testing for alcohol will be conducted as
353 required by 49 CFR part 40 as amended. All covered employees shall be subject to
354 testing prior to performing safety sensitive duty, for reasonable suspicion, following an
355 accident, and random.

357 A drug test can be performed any time a covered employee is on duty. A
358 reasonable suspicion or random alcohol test can be performed just before, during, or
359 after the performance of a safety-sensitive job function. Under City of Stevens Point's
360 authority, a non-DOT alcohol test can be performed any time a covered employee is on
361 duty.

362
363 All covered employees will be subject to urine drug testing and breath alcohol
364 testing as a condition of ongoing employment with Stevens Point Transit. Any safety-
365 sensitive employee who refuses to comply with a request for testing shall be removed
366 from duty and subject to discipline as defined in Section J of this policy.

367 368 369 Pre-Employment Testing

370 All applicants for covered transit positions must undergo USDOT urine drug testing prior
371 to the performance of a safety-sensitive function.

- 372
373 (1) A safety sensitive applicant shall not be allowed to perform a safety-
374 sensitive duty unless the applicant takes a USDOT pre-employment drug
375 test with verified negative results.
- 376 (2) A non-safety sensitive employee shall not be placed, transferred or
377 promoted into a covered position until the employee takes a USDOT drug
378 test with verified negative results.
- 379 (3) If a safety sensitive applicant fails a pre-employment drug or alcohol test,
380 the conditional offer of employment shall be rescinded. Failure of a pre-
381 employment drug test will disqualify an applicant for employment for a
382 period of at least one year. Before being considered for future
383 employment, the applicant must provide the employer with proof of having
384 successfully completed a referral, evaluation and treatment plan as
385 described in Section 655.62 of subpart G. The cost for the assessment
386 and any subsequent treatment will be the sole responsibility of the
387 applicant.
- 388 (4) When an employee being placed, transferred, or promoted from a non-
389 covered position to a covered position submits a drug test with a verified
390 positive result, the employee shall be subject to disciplinary action in
391 accordance with Section J.
- 392 (5) If a pre-employment/pre-transfer test is canceled, Stevens Point Transit
393 will require the safety sensitive applicant to take and pass another pre-
394 employment drug test.
- 395 (6) In instances where a safety-sensitive employee has not performed a
396 safety sensitive function for 90 consecutive days or more, regardless of
397 reason, and is not in the random testing pool during that time, the
398 employee will be required to take a pre-employment drug test under 49
399 CFR Part 655, as amended and have negative test results prior to
400 resuming safety-sensitive job functions. The requirement also applies to
401 an applicant with a pre-employment test result that is 90 days or more old.

- 402 (7) A safety sensitive applicant with a dilute negative test result will be
403 required to retest. Should this second test result in a negative dilute
404 result, the test will be considered a negative and no additional testing will
405 be required unless directed by the MRO.
- 406 (8) Safety sensitive applicants are required (even if ultimately not hired) to
407 provide their consent to Stevens Point Transit to request FTA drug and
408 alcohol records from all previous, DOT-covered, employers that the safety
409 sensitive applicant has worked for within the last two years. Failure to do
410 so will result in the employment offer being rescinded.
- 411 (9) Stevens Point Transit is required to ask all safety sensitive applicants
412 (even if ultimately not hired) if they have tested positive or refused a pre-
413 employment test for a DOT covered employer within the last two years. If
414 the applicant has tested positive or refused to test on a pre-employment
415 test for a DOT covered employer, the safety sensitive applicant must
416 provide Stevens Point Transit proof of having successfully completed a
417 referral, evaluation and treatment plan as described in section 655.62 of
418 subpart G.

419
420 Stevens Point Transit reserves the right to re-evaluate the employee's job
421 status based on the information received from background checks.
422

423 Reasonable Suspicion Testing

424 All Stevens Point Transit's safety-sensitive employees will be subject to a USDOT
425 reasonable suspicion drug and/or alcohol test when the Transit Provider has reasonable
426 suspicion to believe that drug or alcohol use is impacting job performance and safety.
427

428 Reasonable suspicion shall mean that there is objective evidence, based upon specific,
429 contemporaneous, articulable observations of the employee's appearance, behavior,
430 speech or body odor that are consistent with possible drug use and/or alcohol misuse.
431 Reasonable suspicion referrals must be made by one or more supervisors who are
432 trained to detect the signs and symptoms of drug and alcohol use, and who reasonably
433 concludes that an employee may be adversely affected or impaired in his/her work
434 performance due to possible prohibited substance abuse or alcohol misuse.
435

436 A reasonable suspicion alcohol test can only be conducted just before, during, or just
437 after the performance of a safety-sensitive job function. However, under the Transit
438 Provider's authority, a non-DOT reasonable suspicion alcohol test may be performed
439 any time the covered employee is on duty.
440

441 A reasonable suspicion drug test can be performed any time the covered employee is
442 on duty.
443

444 Transit Provider shall be responsible for transporting the employee to the testing site.
445 Supervisors should avoid placing themselves and/or others in a situation which might

446 endanger the physical safety of those present. The employee shall be placed on
447 administrative leave pending disciplinary action described in Section J of this policy.

448
449 A safety sensitive employee who refuses an instruction to submit to a drug/alcohol test
450 shall not be permitted to finish his or her shift and shall immediately be placed on
451 administrative leave pending disciplinary action as specified in Section J of this policy.

452
453 A written record of the observations, which led to a drug/alcohol test, based on
454 reasonable suspicion shall be prepared and signed by the supervisor making the
455 observation. This written record shall be submitted to Designated Employer
456 Representative (DER) and shall be attached to the forms reporting the test results.

457
458 All non-safety-sensitive employees covered under the sole authority of Stevens Point
459 Transit will also be subject to non-USDOT reasonable suspicion testing procedures
460 modeled off the provisions in 49 CFR Part 655 and Part 40.

461
462 When there are no specific, contemporaneous, articulable objective facts that indicate
463 current drug or alcohol use, but the employee (who is not already a participant in a
464 treatment program) admits the abuse of alcohol or other substances to a supervisor in
465 his/her chain of command, the employee shall be referred to the Employee Assistance
466 Program (EAP) for an assessment. Stevens Point Transit shall place the employee on
467 Administrative Leave in accordance set forth under Section J of this policy. Testing in
468 this circumstance would be performed under the direct authority of Stevens Point
469 Transit.

470
471 Since the employee self-referred to management, testing under this circumstance would
472 not be considered a violation of this policy or a positive test result under Federal
473 authority. However, self-referral does not exempt the covered employee from testing
474 under Federal authority as specified in Section H of this policy or the associated
475 consequences as specified in Section J.

476 477 **Post-Accident Testing**

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

480 481 *Fatal Accidents*

482 All covered employee will be required to undergo urine and breath testing if they are
483 involved in an accident with a transit revenue service vehicle that results in a fatality
484 regardless of whether or not the vehicle is in revenue service. This includes all
485 surviving covered employees that are operating the vehicle at the time of the accident
486 and any other employee whose performance may have been a contributing factor to the
487 accident.

488 489 *Non-Fatal Accidents*

490 A post-accident test will be conducted if an accident results in injuries requiring
491 immediate transportation to a medical treatment facility or one or more vehicles incurs
492 disabling damage, unless the covered employees' performance can be completely
493 discounted as a contributing factor to the accident.

494
495 As soon as practicable following an accident, as defined in this policy, the Transit
496 Supervisor investigating the accident will:

- 497
498 (1) Notify the transit employee operating the transit vehicle and all other
499 covered employees whose performance could have contributed to the
500 accident of the need for the test. The supervisor will make the
501 determination using the best information available at the time of the
502 decision.
503
504 (2) Ensure that an employee, required to be tested under this section, is
505 tested as soon as practicable following the accident, but no longer than
506 eight (8) hours after the accident for alcohol, and no longer than 32 hours
507 after the accident for drugs. If an alcohol test is not performed within two
508 hours of the accident, the Supervisor will document the reason(s) for the
509 delay. If the alcohol test is not conducted within (8) eight hours, or the
510 drug test within 32 hours, attempts to conduct the test must cease and the
511 reasons for the failure to test documented.
512
513 (3) Inform any covered employee involved in an accident they must refrain
514 from alcohol use for eight (8) hours following the accident, or until he/she
515 undergoes a post-accident alcohol test.
516

517 An employee who is subject to post-accident testing who fails to remain readily
518 available for such testing, including notifying a supervisor of his or her
519 location if he or she leaves the scene of the accident prior to submission to
520 such test, may be deemed to have refused to submit to testing.

521
522 Nothing in this section shall be construed to require the delay of necessary
523 medical attention for the injured following an accident, or to prohibit an
524 employee from leaving the scene of an accident for the period necessary to
525 obtain assistance in responding to the accident, or to obtain necessary
526 emergency medical care.

527
528 In the rare event that Stevens Point Transit is unable to perform an FTA drug
529 and alcohol test (i.e., employee is unconscious, employee is detained by law
530 enforcement agency), Stevens Point Transit may use drug and alcohol post-
531 accident test results administered by local law enforcement officials in lieu of
532 the FTA test. The local law enforcement officials must have independent
533 authority for the test and Stevens Point Transit must obtain the results in
534 conformance with local law.

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Random Testing

All covered employees will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees. *Non-safety-sensitive employees covered under Stevens Point Transit's authority will be selected from a pool of non-USDOT covered employees.*

- (1) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.
- (2) The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates established by Federal regulations for those safety-sensitive employees subject to random testing by Federal regulations. The random testing rate for drugs is published each year by ODAPC (<http://www.dot.gov/ost/dapc/random-testingrates.html>) and/or in the Federal Register.
- (3) Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
- (4) Random testing may occur anytime an employee is on duty.
- (5) Alcohol random tests can only be performed just before, during, or after the performance of a safety-sensitive duty. However, under Stevens Point Transit's authority, a non-USDOT random alcohol test may be performed any time employee is on duty. Testing can occur during the beginning, middle or end of an employee's shift.
- (6) Employees are required to proceed immediately to the collection site upon notification of their random selection.

573 Return-To-Duty-Testing

574 All covered employees who previously tested positive on a drug or alcohol test or
575 refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and
576 be evaluated and released by the Substance Abuse Professional before returning to
577 work.

578
579 For an initial positive drug test a Return-to-Duty drug test is required and an alcohol test
580 is allowed. For an initial positive alcohol test a Return-to-Duty alcohol test is required
581 and a drug test is allowed. Following the initial assessment, the SAP will recommend a
582 course of rehabilitation unique to the individual.

583
584 The SAP should schedule the return-to-duty test only when the employee is known to
585 be drug- and alcohol-free and there is no risk to public safety.

586
587 Follow Up Testing

588 Covered employees will be required to undergo frequent, unannounced drug and
589 alcohol testing following their return-to-duty. The follow-up testing will be performed for
590 a period of one to five years with a minimum of six tests to be performed the first year.

591
592 The frequency and duration of the follow-up tests (beyond the minimums) will be
593 determined by the SAP reflecting the SAP's assessment of the employee's unique
594 situation and recovery progress. Follow-up testing should be frequent enough to deter
595 and/or detect a relapse. Follow-up testing is separate and in addition to the random,
596 post-accident, reasonable suspicion and return-to-duty testing.

597
598 I. TESTING PROCEDURES

599
600 Drug Testing Procedures

601 Testing shall be conducted in a manner to assure a high degree of accuracy and
602 reliability and using techniques, equipment, and laboratory facilities, which have been
603 approved, by the U.S. Department of Health and Human Service (DHHS). All testing
604 will be conducted consistent with the procedures set forth in 49 CFR Part 40, as
605 amended. The procedures will be performed in a private, confidential manner and
606 every effort will be made to protect the employee, the integrity of the drug testing
607 procedure, and the validity of the test result.

608
609 Specimen validity testing will be conducted on all urine specimens provided for testing
610 under DOT authority. Specimen validity testing is the evaluation of the specimen to
611 determine if it is consistent with normal human urine. The purpose of validity testing is to
612 determine whether certain adulterants or foreign substances were added to the urine, if
613 the urine was diluted, or if the specimen was substituted.

614
615 The drugs that will be tested for include:

- 616 *Marijuana
617 *Cocaine

618 *~~Opiates~~ **Opioids** (including codeine, **hydrocodone, oxycodone**, morphine,
619 **hydromorphone, oxymorphone** and heroin)

620 *Amphetamine (including methamphetamine, **methylenedioxyamphetamine**
621 **[MDA]** and ecstasy), and

622 *Phencyclidine (**PCP**)

623
624 Cutoff levels regarding initial test cutoff levels and confirmatory test cutoff levels adhere
625 to 49 CFR Part 40, as amended.

626
627 After the identity of the donor is checked using picture identification, a urine specimen
628 will be collected using the split specimen collection method described in 49 CFR Part
629 40, as amended.

630
631 Each specimen will be accompanied by a DOT Custody and Control Form and identified
632 using a unique identification number that attributes the specimen to the correct
633 individual.

634
635 The specimen analysis will be conducted at a DHHS certified laboratory. An initial drug
636 screen and validity test will be conducted on the primary urine specimen. For those
637 specimens that are not negative, a confirmatory Gas Chromatography/Mass
638 Spectrometry (GC/MS) test will be performed.

639
640 The test will be considered positive if the amounts of the drug(s) and/or its metabolites
641 identified by the GC/MS test are above the minimum thresholds established in 49 CFR
642 Part 40, as amended. A non-negative test result (adulterated, substituted, and/or
643 invalid) without a legitimate medical explanation (determined by a MRO) is also
644 considered positive.

645
646 The test results from the DHHS certified laboratory will be reported to a Medical Review
647 Officer. A Medical Review Officer (MRO) is a licensed physician with detailed
648 knowledge of substance abuse disorders and drug testing. The MRO will review the
649 test results to ensure the scientific validity of the test and to determine whether there is
650 a legitimate medical explanation for a confirmed positive, substitute, or adulterated test
651 result. The MRO will attempt to contact the employee to notify the employee of the non-
652 negative laboratory result, and provide the employee with an opportunity to explain the
653 confirmed laboratory test result. The MRO will subsequently review the employee's
654 medical history/ medical records as appropriate to determine whether there is a
655 legitimate medical explanation for a non-negative laboratory result. If no legitimate
656 medical explanation is found, the test will be verified positive or refusal to test and
657 reported to the City of Stevens Point's Drug and Alcohol Program Manager (DAPM). If
658 a legitimate explanation is found, the MRO has the responsibility to raise fitness-for-duty
659 considerations with Stevens Point Transit during the verification process. Once verified,
660 the MRO will report the test result as negative to the DAPM and no further action will be
661 taken. If the test is invalid with out a medical explanation, a retest will be conducted

662 under direct observation. Employees do not have access to a test of their split
663 specimen following an invalid result.

664
665 *Split Sample Test*

666 Any covered employee who questions the results of a required drug test as stated in
667 this policy may request that the split sample be tested. The split sample test must be
668 conducted at a different DHHS-certified laboratory with no affiliation with the laboratory
669 that analyzed the primary specimen. The test must be conducted on the split sample
670 that was provided by the employee at the same time as the primary sample. The
671 method of collecting, storing, and testing the split sample will be consistent with the
672 procedures set forth in 49 CFR Part 40, as amended. The employee's request for a
673 split sample test must be made to the Medical Review Officer within 72 hours of notice
674 of the original sample verified test result. Requests after 72 hours will only be accepted
675 at the discretion of the MRO if the delay was due to documentable facts that were
676 beyond the control of the employee. The City of Stevens Point will ensure that the cost
677 for the split specimen is covered in order for a timely analysis of the sample; however
678 the City will seek reimbursement for the split sample test from the employee if the result
679 of the split specimen analysis confirms the original result.

680
681 If the analysis of the split specimen fails to confirm the presence of the drug(s) detected
682 in the primary specimen, if the split specimen is not able to be analyzed, or if the results
683 of the split specimen are not scientifically adequate, the MRO will declare the original
684 test to be canceled. If the split specimen is not available to analyze, the MRO will direct
685 Stevens Point Transit to retest the employee under direct observation.

686
687 The split specimen will be stored at the initial laboratory until the analysis of the primary
688 specimen is completed. If the primary specimen is negative, the split will be discarded.
689 If the primary is positive, adulterated, or substituted, the split will be retained for testing
690 if so requested by the employee through the Medical Review Officer. If the primary
691 specimen is positive, it will be retained in frozen storage for one year and the split
692 specimen will also be retained for one year for testing if so requested by the employee
693 through the Medical Review Officer, Stevens Point Transit or by the relevant DOT
694 agency.

695
696 *Direct Observation Conditions*

697 Stevens Point Transit must direct an immediate collection under direct observation, by a
698 person of the same gender, with no advance notice to the employee, if:

- 699
700 (1) The laboratory reports to the MRO that a specimen is invalid, and the MRO
701 reports there was not an adequate medical explanation for the result; or
702 (2) The MRO reports the original positive, adulterated, or substituted test result had to
703 be cancelled because the test of the split specimen could not be performed;
704 (3) The laboratory reports to the MRO that the specimen was negative-dilute with a
705 creatinine concentration greater than or equal to 2mg/dL but less than or equal to 5
706 mg/dL, and the MRO reports the specimen as negative-dilute and that a second

- 707 collection must take place under direct observation (see SS 40.197(b)(1));
708 (4) The collector observes materials brought to the collection site or the employee's
709 conduct clearly indicates an attempt to tamper with a specimen;
710 (5) The temperature on the original specimen was out of range;
711 (6) Anytime the employee is directed to provide another specimen because the
712 original specimen appeared to have been tampered with or;
713 (7) The test is a return-to-duty test or follow-up test.

714

715 *Direct Observation Criteria*

716 The employee who is being observed will be required to raise his or her shirt, blouse, or
717 dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show
718 the collector, by turning around that they do not have a prosthetic device. The direct
719 observation must be conducted by a person of the same gender as the employee being
720 tested.

721

722 *Split Specimen Testing*

723 Employees do not have access to a test of their split specimen following an invalid
724 result.

725

726 *Negative Dilute*

727 Following a negative dilute the employee will be required to undergo another test.
728 Should this second test result in a negative dilute result, the test will be considered a
729 negative and no additional testing will be required unless directed by the MRO.

730

731 *Alcohol Testing Procedures*

732 Tests for breath alcohol concentration will be conducted utilizing a National Highway
733 Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT)
734 operated by a trained Breath Alcohol Technician (BAT).

735

736 Alcohol screening tests may be performed using a non-evidential testing device, which
737 is also approved by NHSTA. The test will be performed in a private, confidential manner
738 as required by 49 CFR Part 40, as amended. The procedure will be followed as
739 prescribed to protect the privacy of the employee and to maintain the integrity of the
740 alcohol testing procedures and validity of the test result.

741

742 If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will
743 be performed to confirm the results of the initial test.

744

745 The confirmatory test must occur using a NHTSA-approved on an EBT operated by a
746 trained BAT.

747

748 The confirmatory test will be conducted at least fifteen minutes after the completion of
749 the initial test.

750

751

752 The EBT will identify each test by a unique sequential identification number. This
753 number, time, and unit identifier will be provided on each EBT printout. The EBT
754 printout, along with an approved alcohol testing form, will be used to document the test,
755 the subsequent results, and to attribute the test to the correct employee.

756
757 An employee who has a confirmed alcohol concentration of 0.04 or greater will be
758 considered a positive alcohol test and in violation of this policy. The consequences of a
759 positive alcohol test are described in Section J of this policy.

760
761 Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039
762 is not considered positive, the employee shall still be removed from duty for at least
763 eight hours or for the duration of the work day whichever is longer and will be subject to
764 the consequences described in Section J of this policy.

765
766 An alcohol concentration of less than 0.02 will be considered a negative test.

767
768 The City Transit Department affirms the need to protect individual dignity, privacy, and
769 confidentiality throughout the testing process. If at any time the integrity of the testing
770 procedures or the validity of the test results is compromised, the test will be canceled.
771 Minor inconsistencies or procedural flaws that do not impact the test result will not result
772 in a cancelled test.

773
774 The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used
775 for all FTA required testing. Failure of an employee to sign Step 2 of the ATF will be
776 considered a refusal to submit to testing.

777
778 J. RESULT OF DRUG/ALCOHOL TEST VIOLATION

779
780 Following a positive drug or alcohol test (BAC at or above 0.04) test result or test
781 refusal, the employee will be immediately removed from safety-sensitive duty and
782 referred to a Substance Abuse Professional (SAP).

783
784 An alcohol test result of ≥ 0.02 to ≤ 0.039 BAC shall result in the removal of the
785 employee from duty for eight hours or the remainder of the work day whichever is
786 longer. The employee will not be allowed to return to safety-sensitive duty for
787 his/her next shift until he/she submits to an alcohol test with a result of less than
788 0.02 BAC. If the employee has an alcohol test result of ≥ 0.02 to ≤ 0.039 two or
789 more times within a six month period, the employee will be removed from duty
790 and referred to a Substance Abuse Counselor/Employee Assistance Program
791 (EAP) for assessment and treatment.

792
793 The cost of any treatment or rehabilitation services will be paid directly by the
794 employee or their insurance provider.

795
796 Failure of an employee to report within five days to a criminal drug statute

797 conviction for a violation occurring in the workplace shall result in
798 termination.

799
800 *Drug Test Refusals*

801 An employee is considered to have refused to take a drug test if the employee:

- 802
- 803 (a) Fails to appear for any test (except a pre-employment test) within a
804 reasonable time, as determined by the employer, consistent with
805 applicable DOT agency regulations after being directed to do so by
806 the employer. This includes the failure of an employee to appear for
807 a test when called by a Third Party Administrator (TPA).
 - 808 (b) Fails to remain at the testing site until the testing process is
809 complete. An employee who leaves the testing site before the
810 testing process commences for a pre-employment test is not
811 deemed to have refused to test;
 - 812 (c) Fails to provide a urine specimen for any drug test required by this
813 part or DOT agency regulations. Provided, that an employee who
814 does not provide a urine specimen because he or she has left the
815 testing site before the testing process commences for a pre-
816 employment test is not deemed to have refused to test.
 - 817 (d) In the case of a directly observed or monitored collection in a drug
818 test, fails to permit the observation or monitoring of the provision of
819 a specimen;
 - 820 (e) Fails to provide a sufficient amount of urine when directed, and it
821 has been determined, through a required medical evaluation, that
822 there was not adequate medical explanation for the failure;
 - 823 (f) Fails or declines to take an additional drug test as directed by
824 Stevens Point Transit;
 - 825 (g) Fails to undergo a medical examination or evaluation, as directed by
826 the MRO as part of the verification process, or as directed by the
827 Designated Employee Representative (DER). In the case of a pre-
828 employment drug test, the employee is deemed to have refused to
829 test on this basis only if the pre-employment test is conducted
830 following a contingent offer of employment. If there was no
831 contingent offer of employment, the MRO will cancel the test;
 - 832 (h) Fails to cooperate with any part of the testing process (e.g., refuse to
833 empty pockets when directed by the collector, behave in a
834 confrontational way that disrupts the collection process, fail to wash
835 hands after being directed to do so by the collector);
 - 836 (i) For an observed collection, fails to follow the observer's instructions
837 to raise your clothing above the waist, lower clothing and
838 underpants, and to turn around to permit the observer to determine if
839 you have any type of prosthetic or other device that could be used to
840 interfere with the collection process;
 - 841 (j) Possesses or wears a prosthetic or other device that could be used

- 842 to interfere with the collection process;
843 (k) Admits to the collector or MRO that the specimen was adulterated or
844 substituted;
845 (l) The MRO verifies a test result as adulterated or substituted.

846
847 *Alcohol Test Refusals*

848 An employee is considered to have refused to take an alcohol test if
849 the employee:

- 850 (a) Fails to appear for any test (except a pre-employment test) within a
851 reasonable amount of time, as determined by the employer,
852 consistent with applicable DOT agency regulations, after being
853 directed to do so by the employer. This includes the failure of an
854 employee to appear for a test when called by the Third Party
855 Administrator (TPA).
856 (b) Fails to remain at the testing site until the testing process is
857 complete. Provided, that an employee who leaves the testing site
858 before the testing process commences (see state statute 40.243(a))
859 for a pre-employment test is not deemed to have refused to test;
860 (c) Fails to provide an adequate amount of saliva or breath for any
861 alcohol test required by this part or DOT regulations. Provided, that
862 an employee who does not provide an adequate amount of breath or
863 saliva because he or she has left the testing site before the testing
864 process for a pre-employment test is not deemed to have refused to
865 test.
866 (d) Fails to provide a sufficient breath specimen, and the physician has
867 determined through a required medical evaluation, that there was not
868 adequate medical explanation for the failure;
869 (e) Fails to undergo a medical examination or evaluation, as directed by
870 Stevens Point Transit as part of the insufficient breath procedures.
871 (f) Fails to sign the certification at Step 2 of the ATF (Alcohol Testing
872 Form);
873 (g) Fails to cooperate with any part of the testing process.

874
875

876 K. VOLUNTARY SELF-REFERRAL

877
878 Any employee who has a drug and/or alcohol abuse problem and has not been
879 selected for reasonable suspicion, random or post-accident testing or has not refused a
880 drug or alcohol test may voluntarily refer her to himself to the Stevens Point Transit
881 Manager, who will refer the individual to a substance abuse counselor for evaluation
882 and treatment.

883
884 The substance abuse counselor will evaluate the employee and make a specific
885 recommendation regarding the appropriate treatment. Employees are encouraged to

886 voluntarily seek professional substance abuse assistance before any substance use or
887 dependence affects job performance.

888
889 Any safety-sensitive employee who admits to a drug and/or alcohol problem will
890 immediately be removed for his/her safety-sensitive function and will not be allowed to
891 perform such function until successful completion of a prescribed rehabilitation program.

892
893 A voluntary referral does not shield an employee from disciplinary action or guarantee
894 continued employment with Stevens Point Transit.

895
896 L. GRIEVANCE AND APPEAL

897
898 The consequences specified by 49 CFR Part 40.149(c), as amended for a
899 positive test or test refusal are not subject to arbitration.

900
901 M. PROPER APPLICATION OF THE POLICY

902
903 The City of Stevens Point is dedicated to assuring fair and equitable application
904 of this substance abuse policy. Therefore, supervisors/managers are required to use
905 and apply all aspects of this policy in an unbiased and impartial manner. Any
906 supervisor/manager who knowingly disregards the requirements of this policy, or who is
907 found to deliberately misuse the policy in regard to subordinates, shall be subject to
908 disciplinary action, up to and including termination.

909
910 N. RECORDS MANAGEMENT

911
912 According to 49 CFR Part 655, as amended, the following minimum record
913 retention schedule shall be maintained, as a minimum by the City of Stevens Point
914 DER. Sometimes, additional records will be kept to complete a paper trail and
915 thoroughly document the decision-making process.

916
917 *Record Retention Schedule*

918	Record	Retention
919		
920		
921	Alcohol Test Results <0.02	1 year
922	Records of Negative Test Results	
923		
924	Education and Training Records	2 years
925		
926	Information obtained through previous employer	3 years
927	record checks	
928		
929	Records of covered employee verified positive	5 Years
930	Drug test results	

931

932 Alcohol test results with readings of 0.02 or greater

933

934 Documentation of refusal to take required drug or
935 Alcohol test

936

937 Evidential breath device calibration documentation

938

939 Employee evaluation and referrals

940

941 Annual MIS reports

942

943 ***Type of Records***

944

945 The following specific records will be maintained:

946

947 1. Records related to general policies and procedures

948 a. Current policy statement listing effective date and the approval
949 by the highest ranking official of the City of Stevens Point.

950 b. Employee and new hire policy receipt acknowledgements.

951 c. Previous policy statements listing effective dates and the
952 corresponding approvals by the highest ranking official;
953 employee and new hire policy receipt acknowledgements.

954 2. Records related to employee training

955 a. Training materials on drug use awareness and alcohol misuse,
956 including a copy of the City of Stevens Point's policy on
957 prohibited drug use and alcohol misuse.

958 b. Names of covered employees attending training on prohibited
959 drug use and alcohol misuse and the dates and times of such
960 training.

961 c. Documentation of training provided to supervisors for the
962 purpose of qualifying the supervisors to make a determination
963 concerning the need for drug and alcohol testing based on
964 reasonable suspicion.

965 d. Certification that any training conducted complies with the
966 requirements for such training.

967 3. Records related to the collection process

968 a. Collection logbooks, if used.

969 b. Documents relating to the random selection process.

970 c. Documents generated in connection with decisions:

971 i. To administer reasonable suspicion drug or alcohol
972 tests.

973 ii. On post-accident drug and alcohol testing.

974 d. MRO documents verifying existence of medical explanation of
975 the inability of a covered employee to provide an adequate
976 urine or breath sample.

- 977 4. a. Stevens Point's copy of the custody and control form.
- 978 b. Documents related to the refusal of any covered employee to
- 979 submit to a required test.
- 980 c. Documents presented by a covered employee to dispute the
- 981 result of a test.
- 982 5. Records related to referral and return to duty and follow-up testing
- 983 a. Records concerning a covered employee's entry into and
- 984 completion of the treatment program recommended by the
- 985 substance abuse professional
- 986 6. Records related to the employers MIS annual testing data
- 987
- 988 7. Records related to credentials documenting that each service agent (i.e.
- 989 MRO, SAP, Certified Labs, etc.) meets the minimum basic knowledge,
- 990 qualifications, training, certification/examination, error-correction training,
- 991 and refresher training.
- 992 a. If the service agents maintain these records, the employer should
- 993 perform and keep documents of periodic spot checks to ensure that
- 994 the minimum requirements are met.
- 995
- 996

997 *Location of Records*

998 Drug/alcohol testing records shall be maintained by the City of Stevens Point's Drug
 999 and Alcohol Program Manager in a locked and secure manner so that disclosure of
 1000 information to unauthorized persons does not occur.

1003 *Information Disclosure*

1004 Records will be released to the entities/individuals listed below in the following
 1005 circumstances:

- 1006 1. The Stevens Point Transit Drug and Alcohol Program Manager and other
- 1007 transit system management personnel for records of a verified positive
- 1008 drug/alcohol test.
- 1009 2. A third party only as directed by specific, written instruction of the
- 1010 employee.
- 1011 3. The employee, upon written request, is entitled to obtain copies of any
- 1012 records pertaining to their use of prohibited drugs or misuse of alcohol
- 1013 including any drug or alcohol testing records. Covered employees have
- 1014 the right to gain access to any pertinent records such as equipment
- 1015 calibration records, and records of laboratory certifications. Employees
- 1016 may not have access to SAP follow-up testing plans.
- 1017 4. The adjudicator in a grievance, lawsuit, or other proceeding initiated by or
- 1018 on behalf of the tested individual arising from the results of the
- 1019 drug/alcohol test. The records will be released to the decision maker in
- 1020 the proceeding.

- 1021 5. The National Transportation Safety Board during an accident
1022 investigation.
1023 6. An agency with regulatory authority (such as over Stevens Point Transit or
1024 any of its employees).
1025 7. A Federal, state or local safety agency with regulatory authority over City
1026 of Stevens Point Transit or the employee.
1027 8. In cases of a contractor or sub-recipient of a state department of
1028 transportation, records will be released when requested by such
1029 agencies that must certify compliance with the regulation to the
1030 FTA.
1031 9. To the decision maker in a criminal or civil action proceeding
1032 resulting from an employee's performance of safety-sensitive duties,
1033 in which a court of competent jurisdiction determines that the drug
1034 or alcohol test information is relevant to the case and issues and
1035 order to Stevens Point Transit to release the information. Stevens
1036 Point Transit will release the information which a binding stipulation
1037 that it will only be released to the parties of the proceeding.
1038

1039 If a party seeks a court order to release the specimen or part of a specimen
1040 contrary to any provision of Part 40 as amended, necessary legal steps to
1041 contest the issuance of the order will be taken.
1042

1043

1044 This Policy was adopted by the City of Stevens Point on ~~April 17, 2017~~.

1045

1046 Mayor of the City of Stevens Point

1047

1048

1049 _____

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1051

1052

1053 City Clerk of the City of Stevens Point

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1103

ATTACHMENT A
SYSTEM CONTACTS

Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the following individual(s).

Drug and Alcohol Program Manager:

Name: Lisa Jakusz
Title: Human Resource Manager/
Drug and Alcohol Program Manager
Address: 1515 Strongs Avenue, Stevens Point WI 54481
Telephone Number: 715-346-1594

Alternate/Back Up
Kelley Pazdernik
Assistant to the Mayor
1515 Strongs Avenue, Stevens Point, WI 54481
715-346-1570

Medical Review Officer

Name: ~~Dr. Benjamin Gerson~~ **David Nahin, MD**
Title: ~~University Services MRO~~ **i3screen**
Address: ~~10551 Decatur Road, Suite 200~~ **9501 Northfield Blvd**
~~Philadelphia, PA 19154~~ **Denver, CO 80238**
Telephone Number: ~~215-637-6800~~ **877-585-7366**
Fax Number: **855-253-5666**

Substance Abuse Professional

Name: Harry Deets, MSW, LCSW
Title: EAP Director/Counselor ~ ERC, Inc.
Address: 3525 Stewart Avenue, Wausau WI 54401
Telephone Number: 715-845-9400
Or select one from www.saplist.com - Wisconsin

DHHS Certified Laboratory Primary Specimen

Name: Quest Diagnostics
Address: 10101 Renner Blvd, Lenexa KS 66219
Telephone Number: 800-877-7484

DHHS Certified Laboratory Split Specimen

Name: Lab Corp
Telephone Number: 800-833-3984

Attachment B
List of Safety Sensitive Positions
For Stevens Point Transit

1104		
1105		
1106		
1107		
1108	Title	Testing Authority
1109	Bus Operators	FTA
1110	Mechanics	FTA
1111	Dispatch Scheduler	FTA
1112	Supervisor(s)	
1113		

1114 **Attachment C**
1115 **Alcohol Fact Sheet**
1116

1117 Alcohol is a socially acceptable drug that has been consumed throughout the world for
1118 centuries. It is considered a recreational beverage when consumed in moderation for
1119 enjoyment and relaxation during social gatherings. However, when consumed primarily
1120 for its physical and mood-altering effects, it is a substance of abuse. As a depressant, it
1121 slows down physical responses and progressively impairs mental functions.
1122

1123 **Signs and Symptoms of Use**
1124

- 1125 Dulled mental processes
- 1126 Lack of coordination
- 1127 Odor of alcohol on breath
- 1128 Possible constricted pupils
- 1129 Sleepy or stuporous condition
- 1130 Slowed reaction rate
- 1131 Slurred speech
- 1132

1133 (Note: Except for the odor, these are general signs and symptoms of any depressant
1134 substance.)
1135

1136 **Health Effects**
1137

1138 The chronic consumption of alcohol (average of three servings per day of beer
1139 [12 ounces], whiskey [1 ounce], or wine [6 ounce glass]) over time may result in
1140 the following health hazards:
1141

- 1142 Decreased sexual functioning
- 1143 Dependency (up to 10 percent of all people who drink alcohol become
1144 physically and/or mentally dependent on alcohol and can be termed
1145 "alcoholic")
- 1146 Fatal liver diseases
- 1147 Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast,
1148 and malignant melanoma
- 1149 Kidney disease
- 1150 Pancreatitis
- 1151 Spontaneous abortion and neonatal mortality
- 1152 Ulcers
- 1153 Birth defects (up to 54 percent of all birth defects are alcohol related).
1154

1155 **Social Issues**
1156

- 1157 Two-thirds of all homicides are committed by people who drink prior to the
1158 crime.

- 1159 Two to three percent of the driving population is legally drunk at any one time.
1160 This rate is doubled at night and on weekends.
- 1161 Two-thirds of all Americans will be involved in an alcohol-related vehicle
1162 accident during their lifetimes.
- 1163 The rate of separation and divorce in families with alcohol dependency
1164 problems is seven times the average.
- 1165 Forty percent of family court cases are alcohol problem related.
- 1166 Alcoholics are 15 times more likely to commit suicide than are other segments
1167 of the population.
- 1168 More than 60 percent of burns, 40 percent of falls, 69 percent of boating
1169 accidents, and 76 percent of private aircraft accidents are alcohol related.
- 1170

1171 The Annual Toll

1172

- 1173 24,000 people will die on the highway due to the legally impaired driver.
1174 12,000 more will die on the highway due to the alcohol-affected driver.
1175 15,800 will die in non-highway accidents.
1176 30,000 will die due to alcohol-caused liver disease.
1177 10,000 will die due to alcohol-induced brain disease or suicide.
1178 Up to another 125,000 will die due to alcohol-related conditions or accidents.
- 1179

1180 Workplace Issues

1181

- 1182 It takes one hour for the average person (150 pounds) to process one serving
1183 of an alcoholic beverage from the body.
- 1184 Impairment in coordination and judgement can be objectively measured with
1185 as little as two drinks in the body.
- 1186 A person who is legally intoxicated is 6 times more likely to have an accident
1187 than a sober person.
- 1188
- 1189
- 1190
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1192 **Attachment D – Resources**

1193 **NOTE: Always consult FTA’s website for the most current version.**

1194

1195 **USDOT Office of Drug and Alcohol Policy and Compliance**

1196 **USDOT Office of Drug and Alcohol Policy and Compliance (ODAC)**

1197 <http://www.dot.gov/ost/dapc/>

1198

1199 **What Employers need to Know About DOT Drug and Alcohol Testing – Guidance**
1200 **and Best Practices –**

1201 <http://www.dot.gov/ost/dapc/documents/EmployerGuidelinesOctober012010.pdf>

1202

1203 **What Employees Need to Know About DOT Drug and Alcohol Testing-**

1204 <http://www.dot.gov/ost/dapc/documents/EmployeeHandbookOctober2010.pdf>

1205

1206 **ODAC – Email Notification Updates**

1207 http://www.dot.gov/ost/dapc/email_list.html

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1209

1210 **FTA**

1211 **Federal Transit Administration**

1212 <http://www.fta.dot.gov/>

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1214 **FTA – Legislation and Regulations**

1215 <http://transit-safety.fta.dog.gov/DrugAndAlcohol/Newsletters/Topics.aspx>

1216

1217 **MIS – Drug and Alcohol Reporting**

1218 <http://transit-safety.fta.dog.gov/DrugAndAlcohol/DAMIS/default.aspx>

1219

1220 **Best Practices Manual: FTA Drug and Alcohol Testing Program**

1221 <http://transit-safety.volpe.dog.gov/Publications/order/singledoc.asp?docid=704>

1222

1223 **Implementation Guidelines for Drug and Alcohol Regulations in Mass Transit**

1224 <http://transit-safety.fta.dot.gov/Publications/order/singledoc.asp?docid=61>

1225

1226 **Prescription and Over-the-Counter Medications Toolkit**

1227 [http://transit-](http://transit-safety.fta.dog.gov/publications/substance/RxOTC/RxOTC_Sept2011.pdf)
1228 [safety.fta.dog.gov/publications/substance/RxOTC/RxOTC_Sept2011.pdf](http://transit-safety.fta.dog.gov/publications/substance/RxOTC/RxOTC_Sept2011.pdf)

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1230 **Training Information**

1231 **FTA Training**

1232 <http://transit-safety.fta.dot.gov/DrugAndAlcohol/Training/Default.aspx>

1233

1234 **RTAP Scholarship Program**

1235 <http://www.dot.wisconsin.gov/localgov/transit/rtap.htm>

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Attachment E – Employee Certified Receipt

Employee Name: _____

Employee Signature: _____ **Date:** _____

Supervisor: _____ **Date:** _____

This is to certify that I have been provided educational materials that explain the requirements of 49 CFR Part 655, as amended and 49 CFR, Part 40, as amended and my employer’s policies and procedures with respect to meeting the requirements. The materials include detailed information of the following checked (x) items:

- 1. The designated person(s) to answer questions about the materials.
- 2. Sufficient information about the safety-sensitive functions and periods of the workday that compliance is required.
- 3. Specific information concerning prohibited conduct.
- 4. Circumstances under which a safety-sensitive person will be tested.
- 5. Test procedures, integrity of the testing process, and safeguarding the validity of the test.
- 6. An explanation of what will be considered a refusal to submit to a test and the consequences.
- 7. Information on the affect of alcohol and controlled substance use on:
 - An individual’s health
 - Signs and symptoms of a problem
 - Work
 - Personal Life
 - Available methods of intervening when a problem is suspected
- 8. A copy of Stevens Point Transit’s Drug and Alcohol policy
- 9. Training Materials
- 10. Optional Information: _____

DRUG AND ALCOHOL TESTING POLICY

I. STATEMENT OF POLICY

The City of Stevens Point recognizes that the use and/or abuse of alcohol or controlled substances by drivers of commercial motor vehicles present a serious threat to the safety and health of the driver and the general public. It is the policy of the City of Stevens Point that its drivers should be free of drugs and alcohol. In order to further the City's goal of obtaining a drug-free and alcohol-free transportation system, and to come into compliance with the Omnibus Transportation Employee Testing Act of 1991, the City of Stevens Point has implemented a drug and alcohol testing program which is designed to help reduce and avoid traffic accidents and injuries to the City's employees and the public, to discourage substance and alcohol abuse, and to reduce absenteeism, accidents, health care costs, and other drug and alcohol-related problems.

II. PURPOSE

The Department of Transportation (DOT), the Federal Highway Administration (FHWA) and the Federal Transportation Authority (FTA) have issued Federal Regulations (49 CFR Parts 40, 382, and 655) implementing the provisions of the federal Omnibus Transportation Employee Testing Act of 1991 which requires alcohol and controlled substance testing of drivers who are required to have a commercial driver's license. These Regulations include detailed procedures for urine drug testing and breath alcohol testing of employees in safety-sensitive positions. The purpose of this Policy, then, is to establish an alcohol and controlled substances testing program to help prevent accidents and injuries resulting from the misuse of these substances by drivers of commercial motor vehicles. Consequently, the City of Stevens Point has established the following alcohol misuse prevention program and anti-drug program as well as the subsequent enforcement of violations for its employees conducting safety-sensitive job functions. Employees should also refer to the City's "Drug Free Workplace Policy" which addresses the strict enforcement of workplace controlled substances and alcohol usage.

III. COVERAGE

For purposes of this Policy, the City of Stevens Point and the DOT strictly prohibit the use of alcohol and/or controlled substances by its employees and volunteers who are performing, ready to perform, or ceasing to perform the following safety-sensitive job functions:

1. Operation of a commercial motor vehicle;

2. Directly supervising employees who perform safety-sensitive job functions or supervisors required to have a CDL.

IV. PROHIBITED CONDUCT

Federal Regulations prohibit employees from engaging in the following conduct:

1. Using or possessing alcohol while on duty performing safety-sensitive functions.
NOTE: Federal Regulations include medications containing alcohol in the substances banned from use or possession in the workplace. Therefore, employee will not be assigned to safety-sensitive job functions while using or possessing prescription or non-prescription medication if such medication contains any measurable amount of alcohol. It is the responsibility of the employee to notify his/her supervisor of such medication;
2. No driver required to take a post-accident alcohol test under § [382.303](#) shall use alcohol for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first;
3. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater;
4. Consuming any amount of alcohol within four (4) hours before reporting for duty performing safety-sensitive functions;
5. No driver shall report for duty or remain on duty requiring the performance of safety sensitive functions when the driver uses any drug or substance identified in 21 CFR [1308.11](#) Schedule I;
6. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any non-Schedule I drug or substance that is identified in the other Schedules in 21 CFR part [1308](#) except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in § [382.107](#), who is familiar with the driver's medical history and has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle
7. No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive or has adulterated or substituted a test specimen for controlled substances; or
8. No driver shall refuse to submit to a pre-employment controlled substance test required under § [382.301](#), a post-accident alcohol or controlled substance test required under § [382.303](#), a random alcohol or controlled substances test required under § [382.305](#), a reasonable suspicion alcohol or controlled substance test required under § [382.307](#), a

return-to-duty alcohol or controlled substances test required under § [382.309](#), or a follow-up alcohol or controlled substance test required under § [382.311](#).

In addition, City of Stevens Point Policies prohibits employees from engaging in the following conduct:

1. Dispensing, distributing or receiving alcohol and controlled substances while on duty;
2. Possession of controlled substances while on duty, unless the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle;
3. Reporting for duty or remaining on duty while having an alcohol concentration of 0.02 but less than 0.04;
4. Reporting for duty or remaining on duty while under the influence of alcohol or a controlled substance;
5. Deliberately misusing this policy in regard to subordinates; and
6. Providing false information in connection with a test or falsifying test results through tampering, contamination, adulteration, or substitution.

V. REQUIRED TESTS

Refusal to take a required test will result in the removal of that employee from the employee's assignment(s), which, in turn, will result in discipline.

Testing must be conducted in the following situations:

1. **Pre-employment Testing** - Any individual not currently employed by the City of Stevens Point who is applying for a safety-sensitive position shall be required to undergo drug and alcohol testing after a conditional offer of employment has been made.

Prior to the first time an existing employee performs safety-sensitive functions for the City of Stevens Point (i.e. new position, job transfer, promotion, new duties, etc.), the employee shall be required to undergo testing for alcohol and controlled substances. A positive test will result in a disqualification for further consideration for employment in that safety sensitive position until the employee presents evidence of successful completion of a Substance Abuse Treatment Program.

Any applicant or existing employee who refuses to undergo such alcohol or drug testing will be disqualified from further consideration for employment in that safety-sensitive position.

- 2. Reasonable Suspicion Testing** - Reasonable suspicion means suspicion based on a specific, contemporaneous, articulable observation by a trained supervisor or other trained City of Stevens Point representative concerning the appearance, behavior, speech or body odors of an employee, including indications of the chronic and withdrawal effects of controlled substances. Reasonable suspicion drug or alcohol testing will only occur under these rules if the supervisor's observations are made during, just before, or just after the time the employee is performing work in a safety-sensitive position.
- (a) In a situation where an employee is either acting in an impaired manner or the supervisor has reasonable suspicion to believe the employee is using or is under the influence of alcohol or drugs, the supervisor may order the employee to undergo a drug or alcohol test. The supervisor may, but need not, seek a corroborating opinion from another supervisor prior to immediately removing the employee from the job and sending the employee for drug or alcohol testing.
 - (b) Once the employee has been removed from the job, the supervisor is to contact the Personnel Department. If contact cannot be made at that time, the supervisor is to proceed through the next step of this procedure and make contact with the Personnel Department as soon thereafter as possible.
 - (c) The supervisor is to then take the employee to the collection site for drug and/or alcohol testing immediately, but no later than three (3) hours for an alcohol test or twenty-four (24) hours for a drug test, of having determined that there is reasonable suspicion to believe that the employee is using or is under the influence of alcohol or drugs. The supervisor is to wait at the facility with the employee until the breath test has been completed or the urine sample has been taken. If the alcohol test is not conducted within eight (8) hours after the supervisor makes such reasonable suspicion determination, or if the drug test is not conducted within twenty-four (24) hours after such determination, the supervisor will complete a report explaining the reasons why the test was not conducted.
 - (d) Once the alcohol testing has been completed and a positive confirmation test result has been received (0.04 percent or above), the supervisor or designee will return the employee to the work site. The employee may make his/her arrangements for transportation home. If the employee elects to drive his own vehicle, the supervisor will contact the Police Department if the test result was over the legal limit [per State Statute 346.63(1)].
 - (e) If a urine test has been administered, the City of Stevens Point will contact the employee once the test results are known and a decision has been made as to the employee's status.

- (f) The results of the drug testing will be sent directly to the Medical Review Officer (MRO) for review and the results of the alcohol testing will be sent directly to the Human Resource Manager. When the results are obtained, the employee's supervisor and department head will meet with the Human Resource Manager to determine the appropriate course of action to be taken. This is a confidential process. Test results will be held in strict confidentiality in compliance with all applicable confidentiality rules, regulations and statutes. Likewise, a supervisor will maintain a like confidentiality standard in instance of a referral or disciplinary action.
- (g) Once the test has been completed and the employee has been sent home, the supervisor must submit a written report to the Human Resource Manager outlining, in detail, the event and the behavior observed that led the supervisor to believe the employee was under the influence of alcohol and/or drugs.

This report must be done within 24 hours of the testing.

- 3. **Random Testing** - Random alcohol and drug testing will be conducted just before, during, or just after an employee's performance of safety-sensitive duties. The employee will be randomly selected for testing from a "pool" of employees subject to testing. The testing dates and times are unannounced and will occur with unpredictable frequency throughout the year.

The minimum annual percentage rate for random alcohol testing shall be 25 percent and the minimum annual percentage rate for random drug testing shall be 50 percent of the average number of employees in safety-sensitive positions. The City of Stevens Point reserves the right to either increase or decrease the minimum annual percentage rate for random alcohol and drug testing based upon the violation rate for the entire industry as determined by the Federal Highway Administration and the Federal Regulations implementing drug and alcohol testing in the transportation industry.

The selection of employees from the pool for random testing shall be made by Ministry Medical Group / St. Michael's Hospital, using a scientifically valid method. This method will be a random number table of a computer-based random number generator that is matched with employee's social security numbers. Under this selection process, each employee in the pool will have an equal chance of being tested each time selections are made. As a result, some employees in the pool may be tested more than once each year, while other employees in the pool may not be tested at all.

- 4. **Post-Accident Testing** - As soon as practicable following an accident involving a commercial motor vehicle, the City of Stevens Point shall test an employee driver for alcohol and controlled substances in the following situations:

- a. the accident involved the loss of human life; or

- b. the employee receives a citation under state or local law for a moving traffic violation arising from the accident.
- c. In accidents involving Transit vehicles, the following situations require testing:
 - (i) An individual dies;
 - (ii) An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident;
 - (iii) Any occurrence in which the vehicle or vehicles involved incur disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, “disabling damage” means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

The alcohol breath test must be administered as soon as possible, but no later than three (3) hours following the accident, and the drug test must be administered within thirty-two (32) hours of the accident. If the alcohol test is not administered within eight (8) hours of the accident or if the drug test is not administered within thirty- two (32) hours of the accident, the supervisor will complete a Report explaining why the test was not conducted.

An employee who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the City of Stevens Point to have refused to submit to testing. A covered employee who leaves the scene of the accident may continue to be considered as “readily available” for testing if (1) the employee notifies his supervisor or, if unavailable, another supervisor of his or her location; (2) the employee left the scene to obtain necessary medical care (for himself, herself, or others); or (3) the employee left the scene to obtain assistance in responding to the accident.

5. Return-to-Duty/Follow-Up Testing - The City of Stevens Point will ensure that before an employee returns to duty requiring the performance of a safety-sensitive job function after engaging in conduct prohibited by Federal Regulations in Part IV above, the driver shall undergo a return-to-duty alcohol and/or controlled substance test with a result indicating an alcohol concentration of less than 0.02 and a verified negative result for

controlled substance use. In any event, an employee will not be allowed to return to duty without first having been evaluated by the City of Stevens Point's EAP provider in order to determine the employee's fitness-for-duty. Such follow up activity may be required if an employee has engaged in conduct prohibited by City Policy in Part IV above.

Following a determination that an employee is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, the City of Stevens Point will ensure that the employee is subject to unannounced follow-up alcohol and/or controlled substances testing in consultation with a substance abuse professional. Consequently, the employee will be given at least six (6) unannounced tests during the 12 month period after returning to duty with the possibility of follow-up testing for up to 60 months after the employee returns to duty.

VI. TESTING PROCEDURES

The City of Stevens Point has entered into an alcohol and drug testing agreement with Ministry Medical Group / St. Michael's Hospital. Testing may be done on both urine and breath (blood alcohol may also be required). All drug and alcohol testing will be conducted in conformance with the procedures and rules established by the federal Omnibus Transportation Employee Testing Act of 1991 and its implementing regulations. St. Michael's will handle taking the sample (in standard collection kits) twenty-four (24) hours per day, Sunday through Saturday. They will be responsible for seeing that the samples are sent to a certified laboratory, and assist in the interpretation of the results. Specimen collection is not to be done anywhere but at Ministry Medical Group / St. Michael's unless specifically authorized by the Human Resource Manager.

A. ALCOHOL TESTING

Employees will be required to submit to breath testing using an approved Evidential Breath Testing (EBT) device. A certified Breath Alcohol Technician (BAT) will administer an initial screening test. If the employee tests positive for alcohol, then the BAT will conduct a confirmation test. The City of Stevens Point will take action based only upon the positive results of the confirmation test, 0.04 or greater. All procedures and steps used in conducting both the initial and confirmation tests will be performed in conformance with the Federal Law and Federal Regulations.

1. Preparation for Breath Alcohol Testing

The following procedures summarize the procedures established by the Federal Highway Administration regulations implementing drug and alcohol testing under the Federal Law. These procedures are not binding and are subject to change in the event the Federal Highway Administration or other government agency changes the regulations on drug and alcohol testing of employees in safety-sensitive positions.

- a. When the employee enters the collection site, the BAT will require him/her to provide positive identification (i.e. photo I.D. or employer identification).
- b. The BAT will explain the test procedure.
- c. Employees will be required to complete and sign various forms used to document the testing process. Refusal to sign the test forms will be regarded as a refusal to take the test.
- d. Employees will be instructed to blow forcefully into the mouthpiece for at least 6 seconds or until the EBT indicates that an adequate amount of breath has been obtained.
- e. If an employee tests positive during the screening test, the employee shall not eat, drink, put any object or substance in his or her mouth and to the extent possible, not belch during the 20 minute waiting period before the confirmation test is conducted.
- f. Refusal by an employee to complete and sign the test form, to provide breath, to provide an adequate amount of breath, or other failure to cooperate with the testing process in a way that prevents the completion of the test will subject the employee to discipline, up to and including termination.

In the event of conflicting results between the initial test and the confirmation test, the confirmation test results will determine the outcome of the test.

2. Blood Alcohol Testing

Blood alcohol testing is authorized only in the following circumstances:

- a. When this Policy or Federal Rules requires a post-accident or reasonable suspicion test, and an EBT is not readily available for either a screening or confirmation test, or if there is an EBT available only for a screening test.
- b. When an employee attempts and fails to provide an adequate amount of breath, blood alcohol testing may be used for both screening and confirmation test purposes.

Upon the conclusive finding of a positive (0.04 or greater) blood alcohol test result, the employee has 72 hours in which to request a test of the split specimen. (For explanation of "split specimen," refer to the TESTING FOR CONTROLLED SUBSTANCES section below.) An employee, who fails to notify the Medical Review Office (MRO) within 72 hours of receiving the results of the positive test of the employee's desire to have the split

specimen tested, shall be deemed to have waived the employee's right to seek testing of the split specimen.

Pending receipt of the result of the analysis of the split specimen, the employee shall not perform safety-sensitive functions unless the employee has met conditions set forth in this Policy for a return to safety-sensitive functions following a test result of 0.04 or greater.

All blood alcohol testing will be conducted in conformance with the procedures established by the Federal Regulations.

3. Results of Positive Test

If a confirmation alcohol test measures 0.04 or greater, the City of Stevens Point is required to:

- a. Remove the employee from the safety-sensitive position;
- b. Before returning the employee to employment, take the following steps:
 - i. Refer the employee to the City of Stevens Point's EAP for assessment and a determination of whether participation in a treatment program is necessary;
 - ii. Obtain a verification from a substance abuse professional that the employee has complied with any required rehabilitation or treatment program; and
 - iii. Re-test to verify the employee's alcohol concentration is below 0.02;
- c. The employee will subsequently be given at least six (6) unannounced tests during the next year with the possibility of follow-up testing for up to 60 months.

If the confirmation test level is between 0.02 and 0.039, the employee will be removed from the safety-sensitive position.

In the event that an employee is required to comply with breath testing as a result of a law enforcement investigation, the employee must submit to the examination. The test will be considered enforceable for purposes of this Policy if the testing officer is a qualified BAT and the EBT that was used for the test has been certified by the State of Wisconsin or a local law enforcement agency.

B. TESTING FOR CONTROLLED SUBSTANCES

The City of Stevens Point has established its anti-drug program through its Drug Free Workplace Policy which strictly prohibits the unlawful manufacture, distribution, dispensing, possession or unauthorized use of a controlled substance in the workplace. Furthermore, any abnormal conduct that may create a reasonable suspicion that an employee is under the influence of a controlled substance is addressed in the “Reasonable Suspicion Testing” section described previously in this Policy.

For purposes of this Policy and the Federal Regulations, the City of Stevens Point will utilize a *6-panel drug screen consisting of the following drugs*:

1. Cannabinoids
2. Cocaine
3. Amphetamines **[including methamphetamine, methylenedioxyamphetamine (MDA), and ecstasy]**
4. Phencyclidine (PCP)
5. MDA Analogues
6. **Opioids (DOT) [including codeine, hydrocodone, oxycodone, morphine, hydromorphone, oxymorphone and heroin]**

In instances where there is reason to believe an employee is abusing a substance other than the ~~five~~ drugs listed above, the City reserves the right to test for additional drugs under the City’s own authority using standard laboratory testing protocols.

Drug testing is conducted by analyzing an employee’s urine specimen (through a certified testing lab). This procedure will include use of a split specimen testing procedure. Each urine specimen is subdivided into two bottles labeled as a “primary” and a “split” specimen. Both bottles will be sent to a certified lab. Only the “primary” specimen is opened and used for the urinalysis. The split specimen bottle will remain sealed and stored at the lab. If the analysis of the primary specimen confirms the presence of illegal, controlled substance, the employee has 72 hours to request the split specimen be re-tested at the same lab or be sent to another certified laboratory for analysis, at the employee’s expense. An employee who fails to notify the Medical Review Officer (MRO) within 72 hours of receiving the results of the positive test of the employee’s desire to have the split specimen tested shall be deemed to have waived the employee’s right to seek testing of the split specimen. In some cases the employee may be unable to provide a urine specimen. After a reasonable waiting period (not less than two hours) the collection site person may terminate the testing procedure. The City of Stevens Point will proceed with laboratory testing based upon blood specimen alone.

1. Preparation for Drug Testing

The following procedures summarize the procedures established by the Federal Highway Administration regulations implementing drug testing under the federal law. These procedures are subject to change in the event the Federal Highway Administration or other government agency changes the regulations on drug and alcohol testing of employees in safety-sensitive positions.

- a. When the employee enters the collection site, the employee will be required to provide positive identification (i.e., photo I.D. or employer identification).
- b. The employee will be instructed to provide at least 45 ml of urine under the split sample method of collection. This will be done in a specifically designated “donor” bathroom.
- c. The urine sample shall be divided into a primary specimen (30 ml) and a split specimen (15 ml).
- d. If the test result of the primary specimen is positive, the employee may request, within 72 hours of receiving the positive test result, that the Medical Review Officer (MRO) direct that the split specimen be tested in the same or a different DHHS-certified laboratory for presence of the drug(s) for which a positive result was obtained in the test of the primary specimen.
- e. An employee will be removed from the safety-sensitive position pending the result of the test of the split specimen.
- f. If the result of the test of the split specimen fails to confirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the Medical Review Officer (MRO) shall cancel the test.
- g. Employees will be required to complete and sign various forms used to document the testing and chain of custody process. Refusal to sign the test form(s) will be regarded as a refusal to take the test.
- h. Refusal by an employee to complete and sign the test and chain of custody forms, to provide urine, to provide an adequate amount of urine (to be decided on a case-by-case basis), or other failure to cooperate with the testing process in a way that prevents the completion of the test will be considered grounds for disciplinary action.

In the event of conflicting results between the initial test and the confirmation test, the confirmation test results will determine the outcome of the test.

2. Results of Positive Test

As with an alcohol misuse violation, the City of Stevens Point is required to act upon a positive drug test result in the following manner:

- a. Remove the employee from the safety-sensitive position. This removal will only take place after the employee has been allowed to meet or speak with a Medical Review Officer (MRO) to determine that the positive drug test did not result from the authorized use of a controlled substance;
- b. Refer the employee to the City of Stevens Point's EAP for assessment and subsequent compliance with recommended rehabilitation after a determination of a drug problem has been made;
- c. Employee must be evaluated by a substance abuse professional or Medical Review Officer (MRO) and determined to be fit to return to work prior to their release of the employee; and
- d. Employee must have a negative result on a return-to-duty drug test. Follow-up testing to monitor the employee's continued abstinence from drug use will be required if the employee is determined as needing rehabilitation.

VII. PRESCRIPTION DRUGS

Before performing work-related duties, employee must notify their supervisor if they are taking any legally prescribed medication, therapeutic drug, or any non-prescription drug which contains any measurable amount of alcohol or which carries a warning label that indicates the employee's mental functioning, motor skills, or judgment may be adversely affected by the use of this medication. A written report of this notification is to be filed by the supervisor with the Personnel Department with a copy to the employee. It is the responsibility of the employee to inform his/her physician of the type of safety-sensitive function that the employee performs in order that the physician may determine if the prescribed substance could interfere with the safe and effective performance of the employee's duties or operation of City equipment. However, as required by the Federal Regulations, any employee who uses or possesses medication containing alcohol while on duty or who tests positive for alcohol will be removed from his/her safety-sensitive position, and subject to the provisions of this Policy, even though the reason for the positive alcohol test is the fact that the employee's prescription medication contains alcohol.

A legally prescribed drug is one where the employee has a prescription or other written approval from a physician for the use of the drug in the course of medical treatment. The prescription must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization. Employees do not need to disclose the purpose or the name of the

medication being taken. Disclosure will be on a form prepared by the City with one copy going to the employee's medical file and one copy to the employee. The misuse or abuse of legal drugs while performing City business is prohibited by City Policy.

VIII. CONFIDENTIALITY OF RECORDS

The City of Stevens Point respects the confidentiality and privacy rights of all of its employees. Accordingly/ the results of any test administered under this Policy and the identity of any employee participating in the City of Stevens Point's EAP or other assessment or treatment program will not be revealed by the City of Stevens Point to anyone except as required by law. The City of Stevens Point will release an employee's records as directed by the express written consent of the employee authorizing release to an identified person. In addition, the City of Stevens Point will ensure that any lab or agency used to conduct testing under this Policy will maintain the confidentiality of employee test records.

However, the lab or testing agency will disclose information related to a positive drug or alcohol test of an individual to the Human Resource Manager. The Human Resource Manager may disclose this information to the employee or to the decisionmaker in a lawsuit, grievance, or other proceeding by or on behalf of the individual which arises from any action taken in response to a positive drug or alcohol test; or as required by law, including court orders or subpoenas.

The Medical Review Officer (MRO) will not reveal individual test results to anyone except the Human Resource Manager unless the MRO has been presented with a written authorization from the tested employee. The MRO may reveal to the Human Resource Manager relevant information as to whether the employee is qualified to perform safety-sensitive functions or whether the employee has tested positive for alcohol or a controlled substance. The Human Resource Manager may disclose this information to the employee or to the decisionmaker in a lawsuit, grievance or other proceeding on behalf of the individual which arises from any action taken in response to a positive drug or alcohol test; or as required by law, including court orders or subpoenas; or upon the tested employee's written authorization and consent.

All records related to drug and alcohol tests of individual employees will be maintained in individual files separate from the employee's personnel file. These records will be stored in a locked cabinet and access will only be allowed to those employees who have a legitimate need to review the records of a particular employee.

IX. COSTS

The employer shall pay all costs associated with the administration of alcohol and controlled substance testing except those costs for a "split specimen" test requested by an employee or an alcohol test as outlined in Section XI(c) below. The employee shall pay for the split specimen test. If the result of the test is negative the City shall reimburse the employee for said test.

The employee must bear the cost of the alcohol test outlined in XI(c).

X. PAY STATUS

All time spent undergoing required alcohol or controlled substance testing, including travel time shall be paid in accordance with applicable provisions of a Collective Bargaining Agreement or pay policy of the City, except that an alcohol test as described in Section XI(c) below must be done on an employee's own time, prior to the start of his/her regular shift.

XI. DISCIPLINE

Consistent with this policy the employer may take disciplinary action based on non-compliance with this policy by an employee and specifically for actions as follows:

- A. If a Medical Review Officer (MRO) reports that a urine drug test is positive, the employee will be subject to discharge. Discharge may be held in abeyance if the employee enters into a last chance agreement and successfully completes a Substance Abuse Treatment Program.
- B. If a BAT reports that a breath test is equal to or exceeds 0.04 employee shall be subject to discharge. Discharge may be held in abeyance if the employee enters into a last chance agreement and successfully completes a Substance Abuse Treatment Program.
- C. If a BAT reports a breath test is recorded between 0.02 and 0.04, the employee shall be subject to discipline. At a minimum, the employee will be placed on leave without pay for a minimum of 24 hours following administration of the test. Employees will be permitted to return to work at the start of their next regularly scheduled shift provided they present proof of a retest resulting in a reading less than 0.02. This retest must be conducted at Ministry Medical Group / St. Michael's Hospital and employees must make their own arrangements and pay for the retest.
- D. Any employee who refuses to submit to a urine drug and/or breath alcohol test shall be subject to discharge.

Questions: Any employee having questions with respect to the scope of this policy and its contents, may contact the Human Resource Manager at (715) 346-1594.

This policy amendment is effective , ~~2015~~ **2018**

Mike Wiza, Mayor

John V. Moe, City Clerk

EMPLOYEE ACKNOWLEDGMENT

Detach and return this page to the Personnel Department after you have received training on the City of Stevens Point's Drug and Alcohol Testing Policy and have received a copy of the Policy.

I acknowledge that I have received training and a copy of the City of Stevens Point's Drug and Alcohol Testing Policy on the date indicated below.

Signed: _____

Date: _____