

Illinois Labor Relations Board  
Contract #

***Collective Bargaining Agreement  
By and Between***

***The City of Naperville***

***and***

***The International Union of Operating  
Engineers, Local No. 399***

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May 1, 2016 – December 31, 2019

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**APPENDIX A** City TOP (Time off Plan) policy

**APPENDIX B** PTO 11 Policy

**APPENDIX C** City Drug and Alcohol Policy

**THIS AGREEMENT** is entered into this \_\_\_\_ day of \_\_\_\_\_, 2017, between the CITY OF NAPERVILLE, ILLINOIS (hereinafter referred to as the “Employer”) and the INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL UNION NO. 399 (hereinafter referred to as the “Union”).

**PREAMBLE**

In as much as the Employer and the Union desire to establish a standard of conditions under which the employees shall work for the Employer during the term of this Agreement, and desire to regulate the mutual relations between the parties with the goal of securing harmonious cooperation and for the prompt settling of any disputes without interruption of work, it is agreed as follows:

**ARTICLE 1**  
**SCOPE OF AGREEMENT**

**SECTION 1.1**

Pursuant to certification under the Illinois Public Labor Relations Act (I.P.R.A.) Case No. S-RC-07-041, the Employer recognizes Local Union 399 of the International Union of Operating Engineers as the exclusive bargaining agent, for the purposes of establishing wages, hours and other conditions of employment, for all employees in the Department of Public Works, Public Building Division of the City of Naperville, Illinois, including: Maintenance Technicians and Building Engineering Technicians and excluding, all Supervisory, Confidential, Professional and Managerial employees and all other employees of the City of Naperville.

The classifications of job titles used above are for descriptive purposes only. Their use is neither an indication nor a guarantee that these classifications or titles will continue to be utilized by the Employer.

**ARTICLE 2**  
**MANAGEMENT RIGHTS**

**SECTION 2.1**

Except as specifically modified by any and all other articles of this Agreement, the Union recognizes the exclusive right of the City to make and implement decisions with respect to the operation and management of its operations in all respects. Such rights include but are not limited to the following: to plan, direct, control and determine all the operations and services of the City; to supervise and direct the working forces; to establish the qualifications for employment and to

employ employees; to schedule and assign work and employees; to establish work and productivity standards, job descriptions and, from time to time, to change those standards; to assign overtime; to determine the methods, means, organization and number of personnel by which operations are conducted; to make, alter and enforce reasonable rules, regulations, orders, policies and procedures; to evaluate employees; to demote, discipline, suspend and discharge employees for just cause (probationary employees without cause); to change or eliminate existing methods, equipment or facilities; and to carry out the mission of the City; provided, however, that the exercise of any of the above rights shall not conflict with any of the express written provisions of this Agreement.

**ARTICLE 3**  
**UNION SECURITY AND DUES**  
**CHECK-OFF**

**SECTION 3.1 - Dues Check-Off.**

While this Agreement is in effect, the City will deduct from each employee's pay check once each pay period an amount no more than the appropriate portion of the regular monthly Union dues for each employee in the bargaining unit for whom there is on file with the City a voluntary, effective dues check off authorization. The amounts so deducted shall be forwarded monthly by the City within twenty (20) calendar days of the deduction, to the Union at the address designated by the Union, together with a list of names (and amounts) for whom deductions have been made. If the employee has no earnings due for that pay period, or if the employee is on disability or receiving workers' compensation, the Union shall be responsible for collecting said dues. The Union agrees to refund to the employee any amount paid to the Union in error on account of this dues deduction provision. The Union may change the fixed, uniform dollar amount, which shall be considered the regular monthly dues once each year during the life of this Agreement. The Union will give the City thirty (30) days' notice of any such change in the amount of uniform Union dues to be deducted.

**SECTION 3.2 - Fair Share Deductions.**

Employees covered by this Agreement who are not members of the Union paying dues by voluntary payroll deduction shall be required to pay in lieu of dues, their proportionate fair share of the costs of the collective bargaining process, contract administration and the pursuance of matters affecting wages, hours and conditions of employment in accordance with the applicable Labor Relations Act. The fair share payment, as certified by the Union, shall be deducted by the City from the earnings of the non-member employees. The aggregate deductions of the employees and a list of their names, addresses and social security numbers shall be remitted monthly to the Union at the address designated in writing to the City by the Union. The Union shall advise the Employer of any increase in fair share fees in writing at least thirty (30) days prior to its effective date. The amount constituting each non-member employee's share shall not exceed dues uniformly required of Union members.

**SECTION 3.3 - Religious Exemption.**

Should any employee be unable to pay their contribution to the Union based upon bona fide religious tenets or teachings of a church or religious body of which such employee is a member, such amount equal to their fair share shall be paid to a non-religious charitable organization mutually agreed upon by the employee affected and the Union. If the Union and the employee are unable to agree on the matter, such payments shall be made to a charitable organization from an approved list of charitable organizations. The employee will on a monthly basis furnish a written receipt to the Union that such payment has been made.

**SECTION 3.4 - Notice and Appeal.**

The Union agrees to provide notices and appeal procedures to employees in accordance with applicable law.

**SECTION 3.5 - Union Indemnification.**

The Union shall indemnify, defend, and hold the Employer harmless against any claim, demand, suit or liability arising from any action taken by the Employer in complying with this Article.

**ARTICLE 4**  
**NO STRIKE/NO LOCKOUT**

**SECTION 4.1 - No Strike/Slowdown.**

During the term of this Agreement, neither the Union nor any officers, agents, designees or employees of Employer shall instigate, promote, sponsor, engage or participate in, or condone any strike of any kind, including but not limited to sympathy strikes, work slowdowns, sick outs, concerted stoppages of work, concerted refusals to work overtime, picketing, or any other intentional interruption or disruption of the operation of the City, regardless of the reasons for doing so.

Any or all of the employees who violate any of the provisions of this Article may be subject to discipline or discharge by the City. Each employee who holds the position of officer or steward of the Union occupies a position of special trust and responsibility in maintaining and bringing about compliance with the provisions of this Article. In addition, in the event of a violation of this Section of this Article, the Union agrees to inform its members of their obligations under this Agreement and to direct them to return to work.

**SECTION 4.2 - No Lockout.**

The City will not lock out any employees during the term of this Agreement as a result of a labor dispute with the Union.

**SECTION 4.3 - Penalty.**

The only matter which may be made the subject of a grievance concerning disciplinary action imposed for an alleged violation of Section 4.1 above is whether or not the employee actually engaged in such prohibited conduct. The failure to confer a penalty in any instance is not a waiver of such right in any other instance nor is it a precedent.

**SECTION 4.4 - Judicial Restraint.**

Nothing contained herein shall preclude the City or the Union from obtaining judicial restraint and damages in the event the other party violates this Article.

**ARTICLE 5**  
**GRIEVANCE AND ARBITRATION PROCEDURE**

**SECTION 5.1 - Definition.**

It is mutually desirable and hereby agreed that all grievances shall be handled in accordance with the following steps. For the purpose of this Agreement, a grievance is defined as a complaint arising under this Agreement raised by a bargaining unit employee or the Union against the City that there has been an alleged violation, misinterpretation or misapplication of an express provision or provisions of this Agreement.

**SECTION 5.2 - Procedure.**

The parties acknowledge that it is usually most desirable for an employee and his immediate supervisor to resolve problems through free and informal communications. If, however, the informal process does not resolve the matter or is not utilized, the grievance will be processed as follows:

**STEP 1:** The Union, or the Grievant, may take up the grievance with the Building Maintenance Supervisor within five (5) working days of its occurrence. The Building Maintenance Supervisor shall then attempt to adjust the matter with the Steward and shall respond within ten (10) working days after such discussion to the Steward.

**STEP 2:** If not adjusted in Step 1, the grievance shall be reduced to writing and presented by the Union spokesperson or the grievant to the Building Facilities Manager within ten (10) working days following the Building Maintenance Supervisor's answer in Step 1. The grievance shall contain a statement of facts, the provision or provisions of this Agreement which are alleged to have been violated, and the relief requested. The designated management representative shall attempt to adjust the grievance as soon as possible, but shall give his answer in writing to the Union within ten (10) working days after receipt of the grievance.

STEP 3: If not adjusted in Step 2, the grievance shall be forwarded to the Department Director. The Department Director or designated management representative and Union representative shall meet to attempt to adjust the grievance as soon as possible. The Director shall give his answer in writing to the Union within ten (10) working days after this meeting.

STEP 4: If not adjusted in Step 3, the grievance shall be submitted to the City Manager through the Department Director within ten (10) working days of the answer in Step 3. A meeting shall be held at a mutually agreeable time and place with the City Manager or his representative within fifteen (15) working days of the receipt of the grievance. If the grievance is settled as a result of such meeting, the settlement shall be reduced to writing and signed by the parties. If no settlement is reached, the City Manager or his designated representative shall give the Union Business Representative the Employer's written answer within ten (10) working days following their meeting.

#### **SECTION 5.3 - Time Limits.**

Grievances not appealed within the time limits set forth above shall be considered settled on the basis of the last answer given, unless the time therefore had been previously extended in writing. Any such settlement by virtue of failure to appeal shall not be considered a precedent on the issue grieved. Any time period provided for under the steps of the grievance procedure may be mutually extended and agreement in this regard shall not be unreasonably withheld.

#### **SECTION 5.4 - Arbitration.**

If the grievance remains unresolved, the Union may, by written notice to the City Manager, demand arbitration as described below within fifteen (15) working days of the receipt of the Step 4 answer.

- A) When arbitration is demanded, the parties shall attempt to agree on the selection of an arbitrator. In the event the parties are unable to agree on an arbitrator, the Employer and the Union shall join in a request to the Federal Mediation and Conciliation Services for a list of seven (7) qualified arbitrators who are members of the National Academy of Arbitrators. Each party shall have the right to strike one entire list. Once the parties are ready to select from a list, they shall then attempt to agree upon an arbitrator, and if they fail to agree, six (6) names from the list of seven (7) arbitrators shall be eliminated by the Employer and the Union alternately striking one name at a time. The remaining name shall be the arbitrator chosen, and his authority shall be limited to making a decision on the grievance in question in conformity with the terms of this agreement. It is agreed that an arbitrator shall have no right to add to, take from, or modify any of the provisions

of this Agreement. The cost of the arbitrator's services and a stenographic transcript shall be shared equally by the Employer and the Union. Any other expenses, such as wages, fees, living, or traveling expenses of representatives or witnesses, must be paid by the party incurring such expenses.

- B) The arbitrator shall be notified of his selection and shall be requested to set a time and place for the hearing, subject to the availability of Union and City representatives.
- C) The Union and City shall have the right to request the arbitrator to require the presence of witnesses and the production of documents.
- D) The arbitrator shall submit his decision in writing within forty-five (45) days following the close of the hearing or the submission of briefs, whichever is later. This requirement may be waived only by mutual agreement of the parties.
- E) The arbitrator shall not have the authority to hear more than one grievance unless otherwise mutually agreed by the parties.

**SECTION 5.5 - Limitations on Authority of Arbitrator.**

The arbitrator shall have no right to amend, modify, nullify, ignore, add to, or subtract from the provisions of this Agreement. The arbitrator shall consider and decide only the question of fact as to whether there has been a violation, misinterpretation or misapplication of the specific provisions of this Agreement. The arbitrator shall be empowered to determine the issue raised by the grievance as submitted in writing at Step 4, unless otherwise mutually agreed by the parties. The arbitrator shall have no authority to make a decision on any issue not so submitted or raised. The arbitrator shall not in any way limit or interfere with the powers, duties and responsibilities of the City under law and applicable court decisions. Any decision or award of the arbitrator shall be final and binding. If a party believes that the decision rendered is not within the limitations of the Arbitrator's authority in this section, that party shall bear the burden of challenging said decision in court.

**SECTION 5.6 - Bypassing Steps.**

The parties may by mutual written agreement in a specific instance, agree to bypass one or more steps of the grievance procedure.

**SECTION 5.7 - Exclusivity of Grievance Procedure and Grievance Form.**

The grievance procedure set forth in this Article shall be the sole and exclusive means for discussing and processing items subject to the grievance procedure, with the exception of rights that are also secured by statute. Grievances shall be presented only upon forms approved and provided by the Union.

**ARTICLE 6**  
**PROBATIONARY PERIOD**

**SECTION 6.1 - Probation Period.**

New employees to the bargaining unit shall serve a six (6) month probationary period of employment with the Employer and shall immediately thereafter be credited with seniority from the date of employment, except that the Employer may extend the probationary period for any such new employee for an additional three (3) months with the agreement of the Union. If a maintenance technician is promoted to the position of building engineer he shall serve a thirty (30) day probationary period, except that his seniority shall continue to accrue during such period. If the Employer determines that the promoted employee has not satisfied his probation, the Employer shall place him back in his prior maintenance technician position.

**SECTION 6.2 - No Recourse To Grievance Procedure.**

During the probationary period, a newly hired employee may be disciplined or discharged by the Employer without the employee so affected having recourse to the Grievance and Arbitration Procedure in the Agreement. A promoted employee shall have no recourse to the Grievance and Arbitration Procedure on the issue of the Employer's decision as to whether he is qualified to perform the engineer position and has satisfied his thirty (30) day probationary period.

**ARTICLE 7**  
**SHORT-TERM EMPLOYMENT**

**SECTION 7.1**

A short-term employee is an employee who is employed for no more than four (4) months during the calendar year without a reasonable expectation of being rehired in a subsequent calendar year. Short-term employees shall not be members of the bargaining unit and may perform any assigned work, provided such assignment does not cause the layoff of any bargaining unit employee.

**ARTICLE 8**  
**DISCIPLINE PROCEDURES**

**SECTION 8.1**

In general, the City will practice progressive discipline unless an employee commits an infraction meriting suspension or termination from employment. Employees shall not be disciplined except for just cause. When just cause exists, the City shall have the right to invoke any one of the following disciplinary measures:

**SECTION 8.2 - Oral or Written Reprimand.**

This is a censure, expressing formal disapproval of the actions of an employee, but carries no loss of privileges. Oral reprimands will be recorded in writing in the supervisor's or department's file and will not be recorded in the employee's official personnel file kept in Human Resources. When the supervisor issues a written reprimand it should be countersigned by the Department Director. A copy of the written reprimand must be given to the employee and another must be placed in the employee's personnel file. Nothing in this Section shall require the Employer to issue an oral reprimand prior to issuance of a written reprimand. Oral reprimands shall not be subject to the arbitration provisions under Article 5 of this Agreement.

**SECTION 8.3 - Suspension Without Pay.**

This is the temporary removal from employment, accompanied by a concurrent and temporary loss of wages. The Department Director has the authority to implement a suspension of an employee up to a maximum of three (3) days. Any suspension greater than three (3) days must be approved by the City Manager. In both cases, the appropriate "change of payroll" form must be completed, included with these forms must be a complete report of the incident. The suspension report must be signed by the Department Director and indicate the days of suspension.

**SECTION 8.4 - Suspension Pending Investigation.**

Where an employee is alleged to have engaged in conduct which would be cause for a discharge but his supervisors have not had a sufficient opportunity to investigate the allegations to make a final determination as to whether there is sufficient evidence to terminate the employee, the Department Director may, with the approval of the City Manager, suspend the employee pending the outcome of the investigation. Such a suspension may be with or without pay at the discretion of the City Manager; provided, however, no employee may be suspended pending investigation without pay for more than thirty (30) days. If the final outcome of the investigation is that the employee was exonerated with the City of all allegations, the employee shall be paid all lost wages during the time of the suspension.

**SECTION 8.5 - Dismissal.**

This is the act of discharge from employment and the permanent loss of all privileges of employment. The Department Director may recommend to the City Manager that an employee be dismissed.

**SECTION 8.6 - Due Process.**

Prior to the actual imposition of a suspension without pay (other than suspension without pay pending investigation) or discharge, the City shall give the affected employee an opportunity to discuss the circumstances underlying the disciplinary action, which shall take place as soon as

practicable and the employee shall be informed at that time of the basis for the disciplinary action. The employee upon request shall be allowed to have a Union Representative present during the discussion, although a discussion will not be inordinately delayed if a Representative is not immediately available. The City shall provide to the employee a copy of any written reprimand that is placed in his file.

**ARTICLE 9**  
**SUBCONTRACTING**

**SECTION 9.1 - Right to Subcontract.**

It is the general policy of the City to continue to utilize its employees to perform work they are qualified to perform. However, the City reserves the right to contract out any work it deems necessary in the exercise of its best judgment and consistent with the City's lawful authority under the Illinois Statutes. The City shall not, without agreement of the Union, subcontract work that has been traditionally, through past practice, performed by unit employees (except major repairs not expected of the bargaining unit) while any member of the bargaining unit is on layoff status.

**ARTICLE 10**  
**LEAVES OF ABSENCE**

**SECTION 10.1 - Short-Term Leave of Absence.**

Leave without pay may be granted for a period of up to one (1) month (four (4) calendar weeks) where the continued absence of the employee does not adversely affect the ability of the City to adequately perform its governmental function, during the calendar year, if all PTO is exhausted. A request for short-term leave shall be in writing to the Department Director and may be granted with the approval of the City Manager. At the completion of a short-term leave an employee will return to his or her previous position and status without change to seniority and salary. PTO and holiday pay shall not accrue nor be paid during this period. If the employee does not return to work after a short-term leave, any other benefits paid by the City during the leave shall be repaid at termination by the employee. Any employee who does not report back to work within five (5) days of the end of an unpaid absence shall be considered to have terminated his or her employment with the City.

**SECTION 10.2 - Extended Leave of Absence.**

Extended leave without pay may be granted for a period not to exceed one (1) year where the continued absence of the employee does not adversely affect the ability of the City to adequately perform its governmental function. Requests for extended leave shall be in writing to the Department Director and may be granted with the approval of the Department Director and City Manager. PTO and holiday benefits will not accrue during the period of leave of absence.

The employee shall have the right to assume health and life insurance payments at the City determined premium rates and remain a part of the group medical coverage during the leave. If the employee is granted a leave of absence of more than one (1) month, the employee is not guaranteed reinstatement to his or her former position. The Employee may be replaced at the discretion of the Department Director, and approval of the City Manager.

At the expiration of the leave period, Human Resources shall attempt to place the employee in his or her former position or one that is similar, if possible, depending on the employee's qualifications and positions available. If the period of leave is one (1) month or longer, the employee's benefit accruals and appointment date shall be adjusted according to the period of absence.

During a period of approved short or long-term leave for purposes other than illness or accident, the employee shall not accept any other employment for remuneration. Employees on approved short or long-term leave due to illness or accident may accept other employment for remuneration so long as the required duties do not aggravate the illness or injury.

The City will provide a written notice of termination to an employee who has not returned to work within five (5) days after the end of the approved leave period. After the five (5) day period, the City shall terminate employment, including all City benefits, if the employee has not returned to work.

**SECTION 10.3 - Jury Duty Leave.**

Any employee summoned for jury duty on his/her regular day of work shall be given time off to serve, regardless of the shift to which he/she is assigned. The City shall not deny an employee time off for jury duty because he/she is then assigned to work a night shift.

Employees called upon for jury duty will notify their supervisor (or designee) as soon as possible. At a minimum, the employee must provide a copy of his/her summons within 10 days of its date of issuance.

When adequate documentation is provided (i.e. a copy of notice/summons or other evidence of actual days served), time off with pay will be granted to the individual serving on jury duty. An employee's time served on jury duty will be considered time worked. Employees may keep any payment received for jury duty from the court.

**SECTION 10.4 - Funeral Leave.**

When there is a death in the immediate family, an employee will be granted up to three (3) working days off between the date of death and the date of the funeral or other memorial service held within 30 days of the death. A working day is defined as eight (8) hours for an employee who normally works forty (40) hours per week. Part-time employees' time is pro-rated. These

days shall be granted without loss of pay and without charge to accrued leave. Immediate family is defined as spouse, parents, parents-in-law, children, brothers and sisters, brothers- and sisters-in-law, grandchildren, grandparents, grandparents of spouse or other persons who have been members of the employee's household at the time of death (this list includes relationships of "step," "half," and "great.") Time taken in addition to three (3) days funeral leave may be taken at the discretion of the employee with approval of the Department Director and will be chargeable to other accrued leaves excluding sick leave. This provision does not prohibit an employee from using available time off under other provisions of this Agreement.

**SECTION 10.5 - Military Leave.**

An employee shall receive military leave and seniority in accordance with applicable law as it may be amended from time to time.

**ARTICLE 11**  
**TOOLS AND EQUIPMENT**

**SECTION 11.1**

The City will provide all tools and equipment, including safety equipment, necessary for Maintenance Technicians and Building Engineering Technicians to perform the tasks and work assigned to them.

**ARTICLE 12**  
**SUPERVISORY WORK**

**SECTION 12.1**

The Building Facilities Manager and Building Maintenance Supervisor will be permitted to continue performing work which they have traditionally performed for the City during their work day. Such employees will devote a preponderance of their employment time to exercising supervisory authority; however during emergency conditions and/or overtime circumstances when bargaining unit employees are unavailable or refuse to work the overtime, the supervisors may spend whatever time is necessary performing bargaining unit work. Supervisors shall also be permitted to perform bargaining unit work they have traditionally performed on weekend days. There will be no layoff of current bargaining unit employees because of work being performed by supervisors.

**SECTION 12.2 - Rotation of Weekend Standby for Building Engineers.**

Building Engineers shall be required to staff weekend standby assignments. Said assignments shall be staffed on a rotating basis. The City shall have the right to assign a supervisor

into this rotating assignment at its choice, but nothing herein shall require the City to include a supervisor in said rotation.

**ARTICLE 13**  
**WORKDAY AND SHIFT SCHEDULES**

**SECTION 13.1 - Workweek and Shift schedules.**

The normal workweek for Maintenance Technicians and Building Engineering Technicians will consist of forty (40) hours as follows:

**Maintenance Technicians:** 7:00 a.m. – 3:30 p.m. Monday through Friday  
or  
3:00 p.m. – 11:30 p.m. Monday through Friday

**Building Engineering Technicians:** 7:00 a.m. – 3:30 p.m. Monday through Friday  
or  
3:00 p.m. – 11:30 p.m. Monday through Friday

An employee, with the permission of his supervisor, may alter his work schedule upon written request.

The employer may temporarily alter the normal work week and/or shift for employees under the following terms:

1. The employee(s) affected shall receive at least one (1) week notice prior to the time they are to report to duty outside of their normal work shift, except in emergency situations.
2. The employer may temporarily change the above starting time so long as such change is on a one-half hour (1/2) increment basis (i.e.; not starting at 6:10 a.m., but rather at 6:00 a.m. or 6:30 a.m.)

**SECTION 13.2 - Shift Differential.**

Employees scheduled to work on the 3:00 p.m. to 11:30 p.m. shift shall receive a shift differential of \$ 0.70 per hour. This shift differential shall not be applicable to first shift employees who are called in or held over to work after 3:00 p.m.

### **SECTION 13.3 - Lunch and Break Periods.**

Employees will have a thirty (30) minute unpaid lunch period, approximately mid-way through their normal workday and a fifteen (15) minute paid break. All lunchtime is from the time a person stops working until they start working again. Stopping to pick up meals, travel time, personal phone calls, and mingling with co-workers are all part of the lunchtime.

### **SECTION 13.4 - Ten Hour Shifts.**

The Employer may schedule employees on a four (4) day, ten (10) hour Monday through Friday shift if in its discretion such a schedule is needed. Any language contained in this contract regarding utilization of paid leave shall be adjusted proportionally for employees who work a 4-day, 10-hour per day workweek.

### **SECTION 13.5 Winter Operations Standby**

Throughout the 18-week period known as a winter season (mid-November to mid-March) according to Public Works' winter plan, the Public Buildings Division employees will be split into two teams as equal in number as possible.

1. Employees will be assigned to standby each weekend with teams comprised of approximately equal number of employees and may be comprised of bargaining unit and non-bargaining unit employees as assigned by department supervisors.
2. Each employee on standby will receive 8 hours straight-time standby pay for being responsive to call-outs beginning at 3:30 p.m. on Friday (end of the regular work week) through 7:00 a.m. the following Monday (start of the regular work week). For the two employees on second-shift the standby period will be from 11:30 p.m. on Friday to 7:00 a.m. the following Monday.
3. The employees on paid standby for the weekend will be the "first-called" for winter operations during the subsequent work week. They will also be the first employees offered any daily standby assignment for winter operations during that work week, if determined necessary. Since the team on the "first-call list" is not being formally assigned to standby during the regular work week, they cannot be considered in violation of an assignment if they are unable to come to work. In general, when a winter call-out is made all team members on standby that given week will be called in to work, unless there are extenuating circumstances, as determined by the supervisor.
4. Employees scheduled for a weekend of standby may offer their standby assignment to another employee. Efforts will be made to trade standby to fellow employees in an orderly means that provides equal opportunity to each bargaining unit member throughout the winter season with a rotation schedule based on seniority. Methods

for tracking standby opportunities may vary to meet the expectation of the bargaining unit, but shall not become an extensive process and burden on supervisors/management. The employee must notify the supervisor of any such change. If nobody accepts the standby assignment, then the scheduled employee may be required to be on standby. Public Buildings Division will have employees on standby for each weekend during the 18-week winter season.

5. Employees on vacation or other approved leave may keep their scheduled standby assignment, but must notify their supervisor of their acceptance of the assignment before the end of their last workday before their leave period.

## ARTICLE 14 VACATION AND SICK TIME

### SECTION 14.1 - TOP Plan.

The City of Naperville Time Off Plan (TOP) is incorporated into this Agreement by reference and attached hereto as **Appendix A**. The TOP shall govern all matters related to vacation time, sick time accrual and utilization and all other topics contained in the plan. Employees hired after November 5, 2014 shall not be eligible for the TOP and shall receive paid time off pursuant to the terms of the PTO 11 plan attached hereto as **Appendix B**. Employees on PTO 11 shall have the right to take five days off per year on an unpaid basis once they exhaust their time off accruals. This time off shall be scheduled consistent with Section 14.3 below. Employees on both plans shall have the right to accrue up to sixty (60) hours of compensatory time.

### SECTION 14.2 - Retirement Health Savings Plan

Upon formal retirement from the City of Naperville, employees on the TOP shall convert up to 720 hours (90 days), or a prorated amount for part-time employees, of earned but unused sick leave to a Retirement Health Savings Plan (RHSP) as a sick leave termination bonus. The sick leave termination bonus eligible for contribution to the RHSP is made at the employee's salary rate in effect on his last day of work. The RHSP is used for the payment of health insurance premiums and other eligible health care expenses in retirement. Formal retirement is defined as separated from employment with the City and qualifying for a pension as defined by IMRF.

### SECTION 14.3 - Vacation Scheduling.

The Building Facilities Manager shall establish a vacation schedule for employees sufficiently early each year. In order to assist the Facilities Manager, bargaining unit employees shall have their vacation picks in by March 1<sup>st</sup> of each year. Vacation selections shall be determined by seniority. Vacation requests after the March 1<sup>st</sup> deadline will be on a first come first serve basis.

**ARTICLE 15**  
**HOLIDAYS**

**SECTION 15.1**

Twelve (12) paid holidays are granted to employees. For each holiday employees will receive eight (8) hours of pay at the employee's straight time hourly rate. The holidays are as follows: New Year's Day, Memorial Day, July 4<sup>th</sup>, Labor Day, Veterans Day, Thanksgiving Day, Day After Thanksgiving, Christmas Eve, Christmas Day and three (3) floating holidays. Employees will be allowed to select three (3) days off as their floating holidays anytime between January 1<sup>st</sup> and December 31<sup>st</sup>, subject to supervisory approval. Employees will receive eight (8) hours of pay at their straight time hourly rate for the floating holiday. Employees hired under PTO 11 shall not be eligible for floating holidays. When an employee works on a City observed holiday he shall be paid at two (2) times his regular hourly rate of pay for each hour worked; in addition to receiving eight (8) hours of straight time for holiday pay.

When a holiday falls on a Saturday, it will be observed on the preceding Friday. When a holiday falls on Sunday, it will be observed on the following Monday.

In order to qualify for holiday pay, an employee must have actually worked the last workday immediately before the holiday and the workday immediately following the holiday, unless absence is authorized for a scheduled vacation, verified illness, or other authorized leave.

**ARTICLE 16**  
**SENIORITY AND LAYOFF/RECALL**

**SECTION 16.1**    **Definition.**

Seniority, for purposes of benefits under the City's TOP policy, shall constitute the employee's hire date with the City. Seniority, with respect to any other rights conferred under this Agreement, shall be the date the employee begins work in a job covered under this Agreement. If an employee leaves employment in the bargaining unit for another position with the City, his bargaining unit seniority shall cease accruing until such time as he may return to a bargaining unit position.

**SECTION 16.2**    **Layoff and Recall.**

The Employer shall select employees for layoff and recall to work under this Agreement for each job classification by seniority, provided that the more senior employee has the skill set needed by the Employer at the time of the layoff or recall.

**ARTICLE 17**  
**DRUG AND ALCOHOL POLICY**

**SECTION 17.1**

The City Drug and Alcohol Policy shall apply to all employees covered by this Agreement and is incorporated into this Agreement as **Appendix C**

**ARTICLE 18**  
**WAGES AND OVERTIME**

**SECTION 18.1 - Starting Wage.**

The starting hourly wage rate for maintenance technicians shall be as follows:

May 1, 2016 - \$ 24.15  
January 1, 2017 - \$24.67  
January 1, 2018 - \$25.16  
January 1, 2019 - \$25.66

.. The starting hourly wage rate for newly hired building engineers or those promoted from within the bargaining unit shall be ninety- five percent (95%) of the rate of current building engineers. Once the new building engineer passes his probationary period as set forth in Article 6, his wage rate shall be increased to one hundred percent (100%) of the rate of current building engineers.

**SECTION 18.2 - Wage Increases.**

All unit employees shall receive the following wage increases to their current rate:

May 1, 2016: All employees shall receive a wage increase of 2.50%;

January 1, 2017 – All employees shall receive a wage increase of 2.15%.

January 1, 2018: All employees shall receive a wage increase of 2.0%.

January 1, 2019 - All employees shall receive a wage increase of 2.0%.

For this agreement only, the wage increases shall be retroactive to May 1, 2016.

**SECTION 18.3 - Overtime.**

All hours worked in excess of eight (8) in one day and forty (40) in one week shall be paid at the rate of one and one-half (1½) times the regular hourly rate, except that all hours worked on

Sunday shall be paid at two (2) times the regular hourly rate. Reasonable efforts will be made to post overtime in advance of the work so that all bargaining unit members have equal opportunity for overtime.

#### **SECTION 18.4 - Certification Bonus Program**

Employees shall receive an annual lump sum payment of \$500 for each certification earned through the Local 399 training program or an equivalent certificate program in the following disciplines:

Welding Certification  
Electrical Certification  
Plumbing Certification  
Locksmith Certification  
Carpentry Certification  
CFC Universal (HVAC) Certification

Employees who earn a certification must maintain their certification in the discipline to continue receiving the annual lump sum payment. Employees who earn a certification by June 30 will receive the payment for the year in which it is earned. Employees who qualify to receive a payment shall receive it on the last paycheck of November. Employees can earn a maximum of up to \$3000 in lump sum payments per year based upon earning a certification in each of the disciplines set forth above. Earning certifications is not a requirement for the job and therefore the employee must pursue the certification on their own personal time.

### **ARTICLE 19** **INSURANCE**

#### **SECTION 19.1 - Employee Health and Dental Insurance**

A. PARTICIPATION: The Union agrees that individually and as a group, all bargaining unit employees shall opt out and forgo participation in the City medical and dental insurance plans and benefits. In return, the City agrees to participate in Local 399's medical insurance plan, pursuant to the conditions contained herein.

B. PREMIUM PAYMENTS: The City agrees to enter into a participation agreement with the appropriate Local 399 Health and Welfare Fund in order to allow bargaining unit employees to receive insurance coverage. The monthly premium per covered employee shall be \$910.00 per month for the fiscal year ending December 31, 2016. Effective May 1, 2017 the monthly premium shall be \$1014.00 per month. Local 399 will determine the distribution of the funds between the various components provided by the Fund. Thereafter, during the term of the contract, the premium can increase by no more than \$104.00 per month. In no case, shall the premium rate for any given fiscal year be more than the premium equivalent of the City HMO family plan rate less the employee contribution made by all non-union city employees for that respective year.

C. INDEMNIFICATION: The Union agrees that it shall defend, indemnify and hold the City harmless from any and all claims that may arise from the terms and conditions contained in this Section 19.1.

D. RETURN TO CITY INSURANCE COVERAGE: If in any subsequent agreement the parties agree to allow bargaining unit employees to return to the City medical plans, said return must apply to all bargaining unit employees as a group. In the event of such an agreement, the City shall have no obligation to pay for or provide health or dental insurance coverage to individual employees who decide to not come back onto the City plans. If such a return occurs, the parties agree that the terms in Sections 19.2, 19.3, 19.4, and 19.5 below shall apply to the employees' participation in the City coverage.

### **SECTION 19.2 - Health Insurance.**

In the event that after the term of this Agreement the employees return to the City health insurance policy, the City shall be obligated only to provide group health insurance benefits to full-time employees, with such benefits to be provided under the same terms and in the same amounts as provided to all non-union employees of the City, as the same may be changed from time to time by the City. Nothing in this Agreement restricts the City's right: to change insurance carriers, plan administrators or networks; to self-insure and to change the method or manner of self-insurance; to change benefit levels as directed by the City Council; to implement a health insurance program with multiple plan options (that may include but is not limited to a high deductible plan, Health Savings Account, or Health Reimbursement Account); to participate in programs to reduce health insurance costs, or to utilize health maintenance organizations or other similar groups, provided that the coverage and benefit levels are the same for employees under this Agreement as provided to all other non-union employees of the City, as the same may be changed from time to time by the City.

### **SECTION 19.3 - Employee Health Insurance Premium Contributions.**

Employees participating in the City group health insurance plan shall pay an employee premium contribution equivalent to that charged to all non-union City employees as may be changed from time to time by the City.

### **SECTION 19.4 - Dental Benefits and Employee Premium Contributions.**

Full-time employees will be allowed to participate in dental benefit programs that may be offered under the same condition as all other non-union employees of the City, as may be changed from time to time by the City. Employees participating in the dental program shall pay an employee premium contribution equivalent to that charged to all non-union City employees as may be changed from time to time by the City.

**SECTION 19.5 - Terms of Policies to Govern.**

The extent of coverage under the insurance policies or programs referred to in Sections 19.1, 19.2 and 19.3 above shall be resolved in accordance with the terms and conditions in said policies, rules, and guidelines (including provisions governing self-insurance) and shall not be subject to the grievance procedure.

**SECTION 19.6 - Medical Expense Reimbursement Plan.**

The City offers a Medical Expense Reimbursement Plan and/or a Dependent Care Assistance Plan in which employees are eligible to participate.

**SECTION 19.7 - Life Insurance.**

Employees are eligible for life insurance. The amount of coverage is 150% of the base pay but not less than \$20,000. Employees are also covered for accidental death and dismemberment. In the event of an employee's death the benefit shall be paid to the designated beneficiary. A supplemental voluntary life insurance plan is also available for purchase by employees.

**ARTICLE 20**  
**SAVINGS CLAUSE**

**SECTION 20.1**

If any provision of this Agreement or any application thereof should be rendered or declared unlawful, invalid or unenforceable by virtue of any judicial action or by existing or subsequently enacted Federal or State legislation or by Executive Order or other competent authority, including boards or agencies, the remaining provisions of this Agreement shall remain in full force and effect. In such event, upon the request of either party, the parties shall meet promptly and negotiate with respect to substitute provisions for those provisions rendered or declared unlawful, invalid or unenforceable.

**ARTICLE 21**  
**COMPLETE AGREEMENT**

**SECTION 21.1**

The parties acknowledge that during the negotiations which preceded this Agreement each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining. The understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Except as may be stated in this Agreement, each party voluntarily and

unqualifiedly waives the right and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter referred to or covered in this Agreement or with respect to any subject or matter not specifically referred to or covered in this Agreement, even though such subjects or matters may not have been within the knowledge or contemplation of either or both of the parties at the time they negotiated and signed this Agreement. The Union specifically waives any right it might have to impact or effects bargaining for the life of this Agreement.

**SECTION 21.2 - Term**

This Agreement shall be effective retroactive to May 1, 2016, and shall remain in effect until December 31, 2019, except as hereinafter provided. After December 31, 2019, this Agreement shall continue in effect from year to year, except that no wage increase of any nature will be granted beyond the expiration of this Agreement, hereafter unless notice of termination or renegotiation is given in writing by registered or certified mail, by either party not less than sixty (60) nor more than ninety (90) days before midnight December 31, 2019 or any subsequent annual expiration date. Notices of termination or renegotiation required by this provision, if by Employer, shall be addressed to International Union of Operating Engineers, Local No. 399, 763 West Jackson Blvd., Chicago, IL 60661 and if by Local No. 399, to the Office of the City Manager, 400 South Eagle Street, Naperville, Illinois 60540. Either party may, by a like written notice, change the address to which such notice shall be given. Termination notices or renegotiation notice shall be considered to have been given as of the date shown on the postmark.

IN WITNESS WHEREOF, the parties hereto have fixed their signatures, this 17 day of May, 2017.

**CITY OF NAPERVILLE**

By: Doug X. Krieger  
Douglas Krieger  
City Manager

Attest:  
By: Pam Gallahue  
Pam Gallahue  
City Clerk



**INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL UNION NO. 399**

By: Brian E. Hickey  
Brian E. Hickey  
President and Business Manager

By: Vincent J. Winters  
Vincent T. Winters  
Recording Secretary

## APPENDIX A



### City of Naperville Employee Policy Manual

#### 3.6.3 Leave Policies - Time Off Plan (TOP) - Paid Time Off (PTO)

**Document Owner: HR Generalist**  
**Approved by: City Manager**

**Version: 3**  
**Effective Date: 03/23/2012**

TOP was implemented on June 9, 2001. All employees hired on or after June 9, 2001 until June 30, 2011 automatically have TOP as their leave plan with the following exceptions:

- Fire Department employees working shifts or eligible to return to shifts
- Employees whose Collective Bargaining Agreements have other provisions

All employees hired on or after June 9, 2001 until June 30, 2011 began accruing PTO and sick time immediately. Utilization of PTO during a new hire introductory period is subject to supervisory approval.

Paid Time Off (PTO) eliminates the distinction between sick and vacation. PTO is an accrual of time, which an employee can use for any purpose such as vacation, other leisure time, personal illness, or to care for another person who is ill.

PTO is earned each pay period, effective with the first pay period of employment. Accruals are posted to the employee's record each pay period. Employees who regularly work less than a 40-hour workweek will have their PTO accrual prorated accordingly. Accruals are based on budgeted hours for the position, not on actual hours worked. For example, an employee in a 20 hour per week position who temporarily works 25 hours per week will still receive accruals based on the originally budgeted 20 hour work week.

PTO time will not be earned during any period of unpaid leave. (PTO is earned according to the following schedule after June 9, 2002.)

Start of Year	Annual PTO Accrual (hours)	*Accrual Per Pay Period (hours)	**Maximum Accrual
1	120	4.62	240
2	120	4.62	240
3	120	4.62	240
4	120	4.62	240
5	160	6.15	320
6	160	6.15	320
7	160	6.15	320
8	160	6.15	320

9	160	6.15	320
10	160	6.15	320
11	200	7.69	400
12	200	7.69	400
13	200	7.69	400
14	200	7.69	400
15	200	7.69	400
16	208	8.00	416
17	216	8.31	432
18	224	8.62	448
19	232	8.92	464
20 +	240	9.23	480

\*Accrual is rounded on the last pay period of the calendar year to balance the accrual as required.

\*\*When the maximum accrual allowed is reached, accruals are capped and no further accruals are allowed until the accrued time is less than the maximum allowed. Beginning May 1, 2013 the maximum accrual allowed will be reduced by 20% per year through May 1, 2017 when the maximum accrual allowed will equal 100% of an employee's annual accrual. See attached chart for examples.

- Employees paid in lieu of holidays will accrue an extra 40 hours of PTO time (1.54 hours per pay period) which get set aside in their "Holiday Vacation Bank," as explained in the **Payment in Lieu of Holidays** section earlier in this chapter.

Usage of PTO is governed by each department's work rules and is subject to supervisory approval. All accrued PTO will be paid out at the time an employee separates from employment.

TOP Plan: 40 hours/week

Start of Year	Annual PTO Accrual Hours	Accrual per Pay Period	5/1/12 Max Accrual	5/1/13 Max Accrual	5/1/14 Max Accrual	5/1/15 Max Accrual	5/1/16 Max Accrual	5/1/17 Max Accrual
1	120	4.62	240	216	192	168	144	120
2	120	4.62	240	216	192	168	144	120
3	120	4.62	240	216	192	168	144	120
4	120	4.62	240	216	192	168	144	120
5	160	6.15	320	288	256	224	192	160
6	160	6.15	320	288	256	224	192	160
7	160	6.15	320	288	256	224	192	160
8	160	6.15	320	288	256	224	192	160
9	160	6.15	320	288	256	224	192	160
10	160	6.15	320	288	256	224	192	160
11	200	7.69	400	360	320	280	240	200
12	200	7.69	400	360	320	280	240	200
13	200	7.69	400	360	320	280	240	200
14	200	7.69	400	360	320	280	240	200
15	200	7.69	400	360	320	280	240	200
16	208	8.00	416	374.4	332.8	291.2	249.6	208
17	216	8.31	432	388.8	345.6	302.4	259.2	216
18	224	8.62	448	403.2	358.4	313.6	268.8	224
19	232	8.92	464	417.6	371.2	324.8	278.4	232
20+	240	9.23	480	432	384	336	288	240



City of Naperville  
Employee Policy Manual

### 3.6.5 Leave Policies - Time Off Plan (TOP) - Elimination Period

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**Document Owner: HR Generalist**  
**Approved by: City Manager**

**Version: 1**  
**Effective Date: 10/19/2004**

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An employee may only utilize sick leave after a 2-day Elimination Period. The first full two days of any instance of absence due to an employee's own illness or the need to care for an immediate family member (defined as an employee's spouse, children, parents, parents-in-law, sisters and brothers and other members of the employee's household) who is seriously ill or disabled will be drawn from paid leave accruals other than sick leave.

An employee may draw from PTO, personal leave, floating holidays, supervisory days or compensatory time to satisfy a 2-day elimination period. Employees will have different elimination periods depending upon the number of hours in their scheduled workday. Employees who work 4, 10-hour days will have a 20-hour elimination period (2, 10-hour days). Employees who work 5, 4-hour days, will have an 8-hour elimination period (2, 4-hour days). Unpaid leave may not be utilized to satisfy a 2-day elimination period until all paid leaves have been exhausted.

Employees will have to exhaust only one elimination period for an on-going or re-occurring serious illness or disability (for themselves or their immediate family members, as defined by the FMLA) *so long as the illness or disability is certified by a Physician under the FMLA; or it meets the FMLA definition of a serious medical condition.*

Fathers and adoptive mothers may utilize up to 5 sick days for the birth or adoption of their child after satisfying an elimination period.

Employees may not switch their planned PTO time to sick leave unless they are admitted to the hospital and a 2-day elimination period has been satisfied first.

## APPENDIX B



### City of Naperville Employee Policy Manual

#### 3.22 Leave Policies - PTO - 11

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Approved by: City Manager

Version: 3  
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##### Introduction

The Paid Time Off – 2011 Plan hereafter referred to as PTO-11 was approved by the City Council on June 21, 2011 and was implemented on July 1, 2011. All employees hired on or after July 1, 2011, automatically have PTO-11 as their leave plan with the following exception:

- Employees whose Collective Bargaining Agreements have other provisions

Utilization of PTO-11 during a new hire probationary period is subject to supervisory approval.

##### Paid Time Off (PTO-11)

Paid Time Off (PTO-11) eliminates the distinction between sick and vacation. PTO-11 is an accrual of time which an employee can use for any purpose (such as vacation, other leisure time, personal illness, to care for another person who is ill, etc.). PTO-11 encompasses all time off, including floating holidays, personal days, exempt benefit days, etc. It does not include bereavement/funeral leave, jury duty or military leave.

New full-time employees earn a total of 120 hours of PTO-11 in the first year of employment. New employees will not be eligible to take PTO-11 time during their first 30 days of employment. After 30 days, 5 days (40 hours) of PTO-11 time will be placed in the new employee's accrual bank. Separately, new employees accrue the other 80 hours over 26 pay periods during their first 12 months (up to the annual maximum accrual allowed).

Thereafter, every year on the employee's anniversary date, an additional 8 hours of PTO-11 time will be added to their annual accrual, up to a maximum of 240 hours (*see the accrual schedule below*).

Employees who work less than a 40-hour workweek will have their PTO-11 accrual prorated accordingly. PTO-11 time will not be earned during any period of unpaid leave.

A maximum 1-year's worth of accrual of PTO-11 time may be accumulated at any one time. When this maximum accrual allowed is reached, PTO-11 accruals are capped and no further accruals occur until the accrued time is "used down" to less than the maximum allowed.

PTO-11 is earned according to the following schedule effective August 1, 2013:

Start of Year	Annual PTO-11 Accrual (hours)	*Accrual Per Pay Period (hours)	Maximum Accrual
1	120	3.08**	120
2	128	4.92	128
3	136	5.23	136
4	144	5.53	144
5	152	5.84	152
6	160	6.15	160
7	168	6.46	168
8	176	6.76	176
9	184	7.07	184
10	192	7.38	192
11	200	7.69	200
12	208	8.00	208
13	216	8.30	216
14	224	8.61	224
15	232	8.92	232
16+	240	9.23	240

\* Accrual is rounded on the last pay period of the calendar year to balance the accrual as required.

\*\* 3.08 hours will accrue each pay period for 26 pay periods. After 30 days of employment, the employee will realize these accruals, plus an initial deposit of 40 hours of PTO in his/her PTO-11 accrual bank.

Should a paid holiday fall within an employee's scheduled paid time off, his/her PTO-11 accrual will not be charged.

Usage of PTO-11 is governed by each department's work rules. PTO-11 must be scheduled in advance and have supervisory approval, except in the case of illness or emergency. All accrued PTO will be paid out at the time an employee separates from employment.

**Compensatory Time**

Compensatory time may or may not be permitted depending on departmental work rules. For those departments that permit compensatory time the following applies: Compensatory time allows any non-exempt employee to bank payment for overtime hours worked and use it as paid leave time later on. For example, if an employee works 4 hours of overtime (at 1 ½ times the employee's regular rate of pay) and elects to have those hours banked as compensatory time, 6 hours would be credited to his compensatory time bank. Utilization of compensatory time is subject to supervisory approval.

A maximum of 40 hours of compensatory time may be accrued at any one time. An employee may elect to have compensatory time paid out on any subsequent paycheck. All accrued compensatory time will be paid out at the time an employee separates from employment.

### **Bridge to IMRF Disability**

Employees possessing at least 1 year of IMRF service credit are potentially eligible for IMRF Short-Term Disability. IMRF Disability is the program that pays 50% of salary after a medically disabled employee has been out of work for 30 calendar days.

Should a City of Naperville employee, as a member of the PTO-11 paid time off program (and eligible for IMRF Disability) fail to possess sufficient paid time off accruals to reach this 31<sup>st</sup> calendar day, the City, then, will provide additional paid leave to that employee in order to “bridge the gap” until that 31<sup>st</sup> calendar day out (when the IMRF Disability benefit would normally engage assuming proper medical paperwork is received by IMRF).

This paid “Bridge to IMRF Disability” will only occur under the following circumstances:

1. The employee him/herself has a medical condition eligible for IMRF temporary disability benefits, and
2. The employee has applied for IMRF Disability leave, and
3. The employee has exhausted all PTO-11 leave.

The (paid) “Bridge to IMRF Disability” will be limited to the number of paid hours required for the employee to reach the IMRF disability benefit (i.e., a maximum of 20 work days to reach the 31<sup>st</sup> calendar day out). The paid time off bridge benefit will be limited to once in any 12-month period, per employee.

## APPENDIX C



### City of Naperville Employee Policy Manual

#### 11.1.1 11.1.1 Drug-Free Workplace Policy - Definitions

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Approved by: City Manager

Version: 1  
Effective Date: 10/19/2004

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Printed copies are for reference only. The official version of the Employee Policy Manual is located at <http://mcweb1>.

Throughout this Chapter, the words and phrases specified in this section will have the following meanings, unless otherwise clearly indicated by the context:

**WORD OR TERM:**

Abuse of Drugs:

**DEFINITION:**

The use of any drug which is legal, in the absence of a required medical prescription or in excess of a prescribed dosage, to the extent that such usage causes impairment, or any use of illegal drugs.

Abuse of Alcohol:

The use of alcohol to the extent that such use either renders one's blood alcohol concentration to be \*.02% or greater, or causes impairment (\*Specific collective bargaining agreements or department work rules may impose different restrictions.)

Accident:

Any accident which an employee causes or contributes to, which significantly damages equipment (including, without limitation, automobiles, trucks and other property), or which results in a personal injury requiring emergency medical treatment away from the scene of the accident. Significant damage will include but not be limited to vehicles towed and any vehicle that cannot immediately be put back into service for the City.

Breath Alcohol Tests:

The tests used to determine blood alcohol content.

Breath Alcohol Technician (BAT):

The operator of the breath alcohol analyzing unit (evidential breath tester – EBT).

Confirmed Test:

A drug or alcohol test conducted in accordance

	with the provisions of this Policy, in which the results are positive.
Confirmatory Test - Drugs:	The second test used to analyze a urine sample for drug testing.
EAP:	The City's Employee Assistance Program (described in Chapter 5 of this manual).
Illegal Drug:	Marijuana, cocaine, opiates, phencyclidine (PCP), or amphetamines, prescribed medications, and all controlled substances listed in Schedules I-V of 21 U.S.C. & 821 and 21 C.F.R. Part 1308, as well as any controlled substances as defined in the Illinois Controlled Substance Act, 720 ILCS 570, or Cannabis Control Act, 720 ILCS 550, or other substances that have no recognized medical use but are not listed in the controlled substances schedules (like "designer" or "club" drugs), which are not being used under the supervision of a licensed health care provider or otherwise in accordance with law.
Impairment:	The inability to perform job-related requirements.
Initial Test or Screening - Alcohol:	The first test administered by a Breath Alcohol Technician using a breath evidential breath tester.
Initial Test or Screening - Drugs:	The first test used to analyze a urine sample for drug testing.
Policy:	The City of Naperville Drug-Free Workplace Policy or the DOT Driver Drug & Alcohol Testing Policy, found in Chapter 11 of this Employee Policy Manual.
Positive Test Results:	The results of a chemical drug or alcohol test conducted in accordance with the provisions of this Policy which exceed the minimum standards for breath alcohol concentration or drug concentration permitted under this Policy.

Prescription Drug:

Any drug which may lawfully be obtained only upon authorization of a licensed physician.

Refusal:

An employee's refusal to cooperate in the administration of drug or alcohol tests.

Reasonable Suspicion:

"Determination by a supervisor based on specific, contemporaneous observations concerning an employee's appearance, conduct, speech, behavior, or body odors that there is reason to suspect that an employee has violated this Policy's prohibition on drug and alcohol use. Observations may include indications of the chronic and withdrawal effects of illegal drugs and alcohol. Supervisors will document their observations within 24 hours of ordering an employee to be tested."

Substance Abuse Professional (SAP):

A counselor certified by and trained in the treatment of alcohol or drug abuse.



City of Naperville  
Employee Policy Manual

### 11.1.10 Drug-Free Workplace Policy - Alcohol Tests and Procedures

Document Owner: HR Generalist  
Approved by: City Manager

Version: 1  
Effective Date: 10/19/2004

Printed copies are for reference only. The official version of the Employee Policy Manual is located at <http://mcweb1>.

- If the employee attempts and fails to provide an adequate breath sample, the Breath Alcohol Technician (BAT) will make note of that fact and immediately inform the City's Human Resources Director or his or her designee, who will direct the employee to obtain, as soon as practical after the attempted breath test, an evaluation from a licensed physician acceptable to the City concerning the employee's medical ability to provide an adequate amount of breath.
- An employee will be presumed not to be under the influence of alcohol if the test result indicates a breath alcohol concentration of less than .02.
- In any case where a breath alcohol test is performed for possible use in a City disciplinary action and the result is .02 or more breath alcohol concentration, the employee will promptly be given the opportunity to provide a breath sample at an independent medical facility for analysis by a competent Department of Health and Human Services (DHHS) certified laboratory.
  - If requested by the employee, the City will provide the employee with transportation to an independent DHHS certified laboratory located within fifteen (15) miles of the City.
  - A breath test performed at an employee's request will be at the employee's sole cost and expense.
- The BAT will transmit breath alcohol test results in excess of .02 only to the City's Human Resources Director in a confidential manner.
- Alcohol concentration will mean either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.



City of Naperville  
Employee Policy Manual

### 11.1.13 Drug-Free Workplace Policy - Confidentiality of Test Results

Document Owner: HR Generalist  
Approved by: City Manager

Version: 1  
Effective Date: 10/19/2004

Printed copies are for reference only. The official version of the Employee Policy Manual is located at <http://mcweb1>.

- Any laboratory reporting results of medical or drug tests performed at the City's direction will report those results only to the City's designated MRO. Such results will not be disclosed by the laboratory to any other person, except that the laboratory may affirm the test result to the employee to whom the sample was identified.
- The MRO will disclose information concerning an employee's medically approved drug use or administration obtained pursuant to a City ordered test (whether ascertained through testing or reported by the employee or the employee's medical practitioner at the employee's request) to the Human Resources Director.
- Records of tests conducted subject to this policy or information drawn there from will not be used or disseminated by the City for any purpose other than providing for compliance with the Drug Free Work Place Act, unless with the voluntary written consent of the employee. Such consent will specify the person to whom the information may be provided.
- All employment records will be kept confidential to the extent allowed by law.



City of Naperville  
Employee Policy Manual

**11.2.11 Drug-Free Workplace Policy - DOT Driver Drug and Alcohol  
Testing Policy - Confidentiality**

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**Document Owner: HR Generalist**  
**Approved by: City Manager**

**Version: 1**  
**Effective Date: 10/19/2004**

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**Printed copies are for reference only. The official version of the Employee Policy Manual is located at <http://mcweb1>.**

Information and records relating to drivers' test results and medical information will be kept confidential and maintained in files separate from drivers' personnel files. Such records and information may be disclosed to drivers or any other third party designated in writing by a driver, the MRO, an SAP, a physician or other health care provider responsible for determining the medical qualifications of a driver under a DOT safety regulation, to and among the City's employees or officials on a need to know basis, to the decision maker in a grievance, administrative proceeding, lawsuit, or other legal proceeding, the DOT, the National Transportation Safety Board, or as required or otherwise permitted by law.



City of Naperville  
Employee Policy Manual

### 11.2.2 Drug-Free Workplace Policy - DOT Driver Drug and Alcohol Testing Policy - Definitions

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Document Owner: HR Generalist  
Approved by: City Manager

Version: 1  
Effective Date: 10/19/2004

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Printed copies are for reference only. The official version of the Employee Policy Manual is located at <http://mcweb1>.

**“Accident”** means an occurrence on City property or a public road involving a City vehicle that results in: (1) a fatality; or (2) a driver receiving a citation for a moving traffic violation and (a) bodily injury to a person who immediately receives emergency medical treatment away from the accident scene or (b) disabling damage to a vehicle that requires the vehicle to be towed away from the accident scene. Drivers should immediately tell their supervisors about every accident, even if the accident does not meet this definition.

**“Adulterated specimen”** means a urine specimen that contains a substance that is not normally present in human urine, or contains a substance that is normally present but is at a concentration so high that it is not consistent with human urine.

**“Alcohol”** means the intoxicating agent in beverage alcohol or any low molecular weight alcohols such as ethyl, methyl or isopropyl alcohol. The term includes beer, wine, spirits and medications such as cough syrup that contain alcohol.

**“Commercial Motor Vehicle”** means a City truck, bus or other motor vehicle for which a commercial driver’s license is required and which has a weight rating of 26,001 pounds or more; a vehicle of any size used in the transportation of hazardous material; or a vehicle designed to transport 16 or more persons, including the driver.

**“Dilute specimen”** means a urine specimen which has creatinine and specific gravity values that are too low to meet DOT standards.

**“Driver”** means any person who operates a City commercial motor vehicle and is required to maintain a commercial driver’s license.

**“Drug”** means marijuana, cocaine, opiates, amphetamines, phencyclidine, prescribed medications, and all controlled substances listed in Schedules I-V of 21 U.S.C. § 812 and 21 C.F.R. Part 1308.

**“Drug test”** means a test for marijuana, cocaine, opiates, amphetamines and phencyclidine.

**“Medical Review Officer” or “MRO”** is a licensed physician who has knowledge, training, and clinical experience regarding substance abuse disorders and who will, among other things,

review drivers' positive drug test results and evaluate any medical explanations for such results.

**“Performing a safety-sensitive function”** means any and all times when a driver is actually working or required to be ready to work until the time the driver is relieved from work and all responsibility for performing work.

**“Refuse to cooperate”** means to obstruct the collection or testing process. It includes not promptly proceeding to a collection site and providing specimens when told to do so, failing to remain at the testing site until testing is complete; providing an adulterated, diluted or substituted urine specimen; failing to cooperate with a properly-observed or monitored collection; failing to attempt to provide specimens; failing to promptly provide breath or urine specimens sufficient for testing, unless a legitimate medical explanation is established; failing to cooperate in a medical examination or evaluation directed by the City; failing to sign Step 2 of the DOT Breath Testing Form; and any other conduct which obstructs or interferes with testing.

**“Substance abuse professional” or “SAP”** is a licensed physician or licensed or certified social worker, psychologist, employee assistance professional, or drug and alcohol counselor who has knowledge and training regarding drivers' violations of DOT drug and alcohol regulations and makes recommendations regarding employee treatment, education, follow-up testing, return to duty, and aftercare.

**“Substituted specimen”** means a urine specimen that has creatinine and specific gravity values that are so diminished that they are not consistent with human urine.

**“Test positive for alcohol”** means to take an alcohol test that results in an alcohol concentration of .02 or more (grams of alcohol per 210 liters of breath) for purposes of DOT regulations.

**“Test positive for drugs”** means to take a drug test that results in a concentration of marijuana, cocaine, opiates, amphetamines, or phencyclidine, or their metabolites, that exceeds the cutoff levels that are set forth in 49 C.F.R. Part 40 and are subject to change by the U.S. government.



City of Naperville  
Employee Policy Manual

### 11.2.4 Drug-Free Workplace Policy - DOT Driver Drug and Alcohol Testing Policy - Employee Requests for Assistance

Document Owner: HR Generalist  
Approved by: City Manager

Version: 1  
Effective Date: 10/19/2004

Printed copies are for reference only. The official version of the Employee Policy Manual is located at <http://mcweb1>.

- The City strongly encourages employees with drug or alcohol problems to seek professional help. The City will not discriminate or retaliate against an employee who “voluntarily” comes forward to request assistance for such a problem. Seeking assistance, however, does not insulate an employee from discipline for violations of City rules, failure to fulfill obligations under an employee assistance/treatment program, or for future violations of City rules. Employees seeking assistance may also be subject to random testing during and for 18 months following successful completion of an employee assistance program.
- Subject to the City’s and the Department’s leave of absence policies, the City may grant the employee a leave of absence for a period of up to thirty (30) days to complete primary treatment. An employee will otherwise be allowed to use all accrued sick leave, vacation and personal time off while attending a treatment program, and will be granted FMLA leave (to the extent applicable) or an unpaid leave of absence to complete such program after exhausting such paid time off. The City’s obligation to pay for treatment for alcohol/substance abuse shall be limited to services provided by the City’s medical insurance plan.
- Subject to the Department Director’s approval, the employee will have the option to use accumulated paid leave or take an unpaid leave of absence during treatment.
- The employee will be returned to regular work duties only with the recommendation of the EAP counselor and after successful completion of a return-to-service medical examination, including testing negative for alcohol and drugs, and follow-up testing if recommended by the EAP counselor.
- Employees may request assistance pursuant to this Section not more than once within any three (3) year period, nor more than twice within any ten (10) year period.



City of Naperville  
Employee Policy Manual

**11.2.13 Drug-Free Workplace Policy - DOT Driver Drug and Alcohol Testing Policy - Intervening**

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Document Owner: HR Generalist  
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Version: 1  
Effective Date: 10/19/2004

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**Printed copies are for reference only. The official version of the Employee Policy Manual is located at <http://mcweb1>.**

If you suspect that a co-worker may have an alcohol or drug problem, we encourage you to contact the Human Resources Department or the EAP. Fellow drivers should also consider enlisting the problem driver's friends or family to help confront the driver.



City of Naperville  
Employee Policy Manual

### 11.2.1 Drug-Free Workplace Policy - DOT Driver Drug and Alcohol Testing Policy - Introduction

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Document Owner: HR Generalist  
Approved by: City Manager

Version: 1  
Effective Date: 10/19/2004

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Printed copies are for reference only. The official version of the Employee Policy Manual is located at <http://mcweb1>.

DOT Regulations require the City of Naperville (the "City") to have a policy against alcohol misuse and drug use by drivers of commercial motor vehicles (i.e., individuals who are required to possess a Commercial Driver's License, or "CDL"). In addition, the City has established certain rules regarding alcohol and drugs that are based on its independent authority as an employer. This policy, in addition to the City's other drug and alcohol policies, applies to all applicants for positions requiring a CDL and to all employees who are required to maintain a CDL.

The City encourages drivers with drug and alcohol problems to seek help **before** they become subject to discipline for violating this or other City policies. Such individuals will be accommodated by the City to the extent required by applicable law.



City of Naperville  
Employee Policy Manual

### 11.2.3 Drug-Free Workplace Policy - DOT Driver Drug and Alcohol Testing Policy - Prohibitions

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Document Owner: HR Generalist  
Approved by: City Manager

Version: 1  
Effective Date: 03/02/2006

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Printed copies are for reference only. The official version of the Employee Policy Manual is located at <http://mcweb1>.

- Drivers may not report for or remain on duty requiring the performance of a safety-sensitive function if they:
  - have an alcohol concentration of .02 or more; or
  - are using any drug (unless the use is pursuant to instructions by their doctors or other licensed health care professionals that it will not adversely affect their ability to operate a Commercial Motor Vehicle (CMV) safely).<sup>1</sup>
- Drivers may not perform a safety-sensitive function if they are using alcohol or have used alcohol during the prior four (4) hours.
- Drivers may not use alcohol for eight (8) hours after an accident involving a City CMV unless they have taken a post-accident test.
- Drivers may not refuse to cooperate in a drug or alcohol test required by this policy or DOT rules.

Drivers also remain subject to all other applicable state and federal motor carrier safety rules and regulations and other City rules, including but not limited to rules prohibiting using, possessing, buying, selling, manufacturing, distributing, dispensing or transferring illegal drugs while on City premises.

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<sup>1</sup> Every time a driver is prescribed or given a drug or medication, the driver must verify with his/her doctor or other licensed health care professional that it will not adversely affect his/her ability to drive safely. A driver's failure to verify that his/her use of prescribed drugs or medications will not adversely affect his/her ability to drive safely may result in appropriate disciplinary action up to and including termination of employment (pursuant to the City's independent authority, and subject to any applicable collective bargaining agreement provisions regarding discipline).



City of Naperville  
Employee Policy Manual

**11.2.7 Drug-Free Workplace Policy - DOT Driver Drug and Alcohol Testing Policy - Suspensions and Violations**

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**Document Owner:** HR Generalist  
**Approved by:** City Manager

**Version:** 1  
**Effective Date:** 10/19/2004

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**Printed copies are for reference only. The official version of the Employee Policy Manual is located at <http://mcweb1>.**

Drivers who have their CDL suspended, revoked or canceled or who are disqualified or lose their right to operate a CMV for any period of time, must notify the Human Resources Department before the end of the business day following the day the driver receives notice of the suspension, revocation, cancellation, disqualification or lost privilege.

Drivers who are convicted of violating a state or local law relating to motor vehicle traffic control (other than parking violations) must notify the Human Resources Department within ten (10) days after the date of conviction.

Drivers who fail to notify the City that their driver's licenses have been suspended, revoked or canceled, that they are disqualified or have lost their right to operate a CMV for any period of time, or that they have been convicted of violating a state or local law relating to motor vehicle traffic control (other than parking violations), may be subject to appropriate disciplinary action up to and including termination of employment (pursuant to the City's policy, and subject to any applicable collective bargaining agreement provisions regarding discipline).

Drivers who are convicted of driving a CMV under the influence of alcohol or drugs, leaving the scene of an accident involving a CMV, or a felony involving the use of a CMV, will be disqualified from driving a CMV for at least one year. Depending on the circumstances, the driver may also be subject to appropriate disciplinary action up to and including termination of employment (pursuant to the City's policy, and subject to any applicable collective bargaining agreement provisions regarding discipline).



City of Naperville  
Employee Policy Manual

### 11.1.9 Drug-Free Workplace Policy - Drug Tests and Procedures

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Document Owner: HR Generalist  
Approved by: City Manager

Version: 1  
Effective Date: 10/19/2004

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Printed copies are for reference only. The official version of the Employee Policy Manual is located at <http://mcweb1>.

- Any employee ordered to submit to drug testing pursuant to this Policy will be subject to testing for drugs in accordance with the procedures specified in 49 CFR Part 40, as amended from time to time.
- Urine testing will consist of an initial screening and a confirmatory test.
  - The initial sample screening will be an Enzyme Multiple Immunoassay Test (EMIT).
  - If the initial screening results in a positive finding for one or more of the above-specified drugs or their metabolites, then the sample will then be tested by Gas Chromatography/Mass Spectrometry (GC/MS).
- A sufficient sample of urine or breath will be collected to allow for initial screening, a confirmatory test and an adequate reserve for later testing if requested or required.
- All procedures at a breath or urine collection site will be conducted in accordance with adopted standards and procedures pursuant to 49 CFR Part 40, as amended from time to time.
- If the employee does not provide an adequate sample within three (3) hours after the first unsuccessful attempt, the employer will direct the employee to obtain an evaluation from a licensed physician acceptable to the City concerning the employee's inability to provide an adequate urine sample.
- An employee who tests positive for illegal drugs or prescription drugs without a prescription, or in excess of a prescribed dosage will not be paid for time missed from work, subject to any requirements of the Fair Labor Standards Act.
- An employee who tests negative for illegal drugs or prescription drugs beyond a prescribed dosage will be paid for time missed from work.



City of Naperville  
Employee Policy Manual

#### 11.1.4 Drug-Free Workplace Policy - Employee Requests for Assistance

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**Document Owner: HR Generalist**  
**Approved by: City Manager**

**Version: 1**  
**Effective Date: 10/19/2004**

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**Printed copies are for reference only. The official version of the Employee Policy Manual is located at <http://mcweb1>.**

- The city strongly encourages employees with drug or alcohol problems to seek professional help. The city will not discriminate or retaliate against an employee who “voluntarily” comes forward to request assistance for such a problem. Seeking assistance, however, does not insulate an employee from discipline for violations of city rules, failure to fulfill obligations under an employee assistance/treatment program, or for future violations of city rules. Employees seeking assistance may also be subject to random testing during and for 18 months following successful completion of an employee assistance program.
- Subject to the City’s and the Department’s leave of absence policies, the City may grant the employee a leave of absence for a period of up to thirty (30) days to complete primary treatment. An employee will otherwise be allowed to use all accrued sick leave, vacation and personal time off while attending a treatment program, and will be granted FMLA leave (to the extent applicable) or an unpaid leave of absence to complete such program after exhausting such paid time off. The City’s obligation to pay for treatment for alcohol/substance abuse will be limited to services provided by the City’s medical insurance plan.
- Subject to the Department Director’s approval, the employee will have the option to use accumulated paid leave or take an unpaid leave of absence during treatment.
- The employee will be returned to regular work duties only with the recommendation of the EAP counselor and after successful completion of a return-to-service medical examination, including testing negative for alcohol and drugs, and follow-up testing if recommended by the EAP counselor.
- Employees may request assistance pursuant to this Section not more than once within any three (3) year period, nor more than twice within any ten (10) year period.



City of Naperville  
Employee Policy Manual

### 11.1.2 Drug-Free Workplace Policy - General Policies - Purpose

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Document Owner: HR Generalist  
Approved by: City Manager

Version: 1  
Effective Date: 04/01/2008

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**Printed copies are for reference only. The official version of the Employee Policy Manual is located at <http://mcweb1>.**

- The use of illegal drugs and the abuse of legal drugs and alcohol in the workplace are a significant danger. Such use impairs safety and health, promotes crime, lowers workers' productivity and the quality of work, as well as undermining public confidence in the work City employees undertake.
- The public has the reasonable right to expect persons employed by the City to be free from the effects of drugs and alcohol. The City, as the employer, has the right to expect its employees to be fit for duty when they report for work.
- Bargaining unit employees typically are covered by similar "Employee Testing" articles in their respective collective bargaining agreements. Those employees should reference their applicable contract(s).
- Under the federal and state Drug-Free Workplace Acts, 41 USC §701, *et seq.* and 30 ILCS 580/1, *et seq.*, it is appropriate for the City to adopt this Policy in order to be considered as a "reasonable source" for the award of federal or state contracts or as a grantee of federal or state grant funds. It is the policy of the City to take all reasonable steps to ensure a workplace free of illegal drugs and to strictly prohibit employees, in the workplace or while otherwise conducting City business, from engaging in the unlawful manufacture, distribution, dispensation, possession or use of controlled substances, being under the influence of alcohol or other intoxicating substance, or abusing any drug although legally obtained by not using the drug for prescribed purposes or not taking the drug according to prescribed dosages.
- Employees have the right to know the dangers of drug and alcohol abuse in the workplace, the City's Policy about such use, and the availability of help to combat drug and alcohol problems. The City will maintain an educational program for all employees concerning the dangers of drug and alcohol abuse in the workplace.
- To assist employees in overcoming drug and alcohol abuse problems, the City may offer rehabilitative help through the City's Employee Assistance Program.
- Even though the City may provide assistance programs, employees are at all times fully responsible and accountable for their actions.

- Except as provided herein and in accordance with the provisions of the Fair Labor Standards Act, any employee violating this Policy is subject to discipline, up to and including termination, for the first offense. Criminal behavior may be prosecuted to the full extent of the law.



City of Naperville  
Employee Policy Manual

### 11.1.6 Drug-Free Workplace Policy - Impairment While On-Duty - Illegal Drugs

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Document Owner: HR Generalist  
Approved by: City Manager

Version: 1  
Effective Date: 03/02/2006

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**Printed copies are for reference only. The official version of the Employee Policy Manual is located at <http://mcweb1>.**

- An employee will be subject to discipline up to and including termination where:
  - An employee is on-duty, and either
  - The employee uses, possesses, sells, delivers, purchases or manufactures illegal drugs, or
  - The employee's ability to perform his or her duties is impaired through the use of illegal drugs, or
  - The employer has reasonable suspicion that the employee is impaired through the use of alcohol or drugs, and the employee tests positive on both the Initial and Confirmatory tests for illegal drugs.
- As an alternative to termination, and at the sole discretion of the department Director and the HR Director, the city may in the first instance of violation of the policy above, offer the employee help through the city's Employee Assistance Program (EAP), provided the employee:
  1. Enters into a "Last Chance Agreement" in a form approved by the City Attorney;
  2. Agrees to comply with all of the terms and conditions of the treatment program; and,
  3. Agrees to be tested for drugs and alcohol on a random basis at any point during the treatment program before returning to work, and for a period of three (3) years thereafter.

The decision to offer this alternative to termination shall not be automatically granted and shall be made on a case-by-case basis.

- Subject to the City's and the Department's leave of absence policies, the City will grant the employee a leave of absence for a period of up to thirty (30) days to complete primary treatment. An employee will otherwise be allowed to use all accrued sick leave, vacation, PTO and personal time off while attending a treatment program, and will be granted FMLA leave (to the extent applicable) or an unpaid leave of absence to complete

such program after exhausting such paid time off. The City's obligation to pay for treatment for alcohol/substance abuse shall be limited to services provided by the City's medical insurance plan.

- The employee will return to regular work duties only with the recommendation of the Substance Abuse Professional (SAP) and after successful completion of a return-to-service medical examination, including testing negative for alcohol and drugs and follow-up testing if recommended by the SAP.
- Employees may only voluntarily request assistance pursuant to this Section one time and one time only.
- Referrals to Substance Abuse Professionals will be confidential to the extent allowed by law.
- This Section will not be construed as an obligation on the part of the City to retain an employee on active status throughout the period of rehabilitation if it is appropriately determined that the employee's current use of alcohol or drugs prevents such individual from performing his or her duties or that such active status constitutes a direct threat to the property or safety of others.



City of Naperville  
Employee Policy Manual

### 11.1.5 Drug-Free Workplace Policy - Impairment While On-Duty - Legal Drugs and Alcohol

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Version: 1  
Effective Date: 03/02/2006

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**Printed copies are for reference only. The official version of the Employee Policy Manual is located at <http://mcweb1>.**

- Subject to the second bullet point of this Section (“Last Chance Agreement” sub-section), an employee will be subject to discipline up to and including termination where:
  - The employee is on-duty;
  - Either the employee’s ability to perform his or her duties is impaired, or the employee tests positive on both the initial and Confirmatory Tests for abuse of prescription drugs, or tests \*.02% or more blood alcohol content (\*note: consult appropriate collective bargaining agreement for specific restrictions that may be different and which supersede this policy manual); and
  - In the case of legal drug use, the employee has failed to report to his/her supervisor any known or reasonably anticipated impairment from the drug use, prior to injecting, ingesting, or otherwise taking the drug(s), or prior to beginning the work shift, whichever occurs last.
- As an alternative to termination, and at the sole discretion of the department Director and the HR Director, the city may in the first instance of violation of the policy above, offer the employee help through the city’s Employee Assistance Program (EAP), provided the employee:
  1. Enters into a “Last Chance Agreement” in a form approved by the City Attorney;
  2. Agrees to comply with all of the terms and conditions of the treatment program; and,
  3. Agrees to be tested for drugs and alcohol on a random basis at any point during the treatment program before returning to work, and for a period of three (3) years thereafter.

The decision to offer this alternative to termination shall not be automatically granted and shall be made on a case-by-case basis.

- Subject to the City’s and the Department’s leave of absence policies, the City may grant the employee a leave of absence for a period of up to thirty (30) days to complete primary treatment.

- An employee will otherwise be allowed to use all accrued sick leave, vacation, PTO and personal time off while attending a treatment program, and will be granted FMLA leave (to the extent applicable) or an unpaid leave of absence to complete such program after exhausting such accrued paid time off as described here. The City's obligation to pay for treatment for alcohol/substance abuse will be limited to services provided by the City's medical insurance plan.
- The employee will return to regular work duties only with the recommendation of the Substance Abuse Professional (SAP) and after successful completion of a return-to-service medical examination, including testing negative for alcohol and drugs and follow-up testing if recommended by the SAP.
- Employees may request assistance pursuant to this Section not more than once within any ten (10) year period (Consult department collective bargaining agreements for possible differences in this timeline.)
- Referrals to the EAP will be confidential to the extent allowed by law.
- This Section will not be construed as an obligation on the part of the City to retain an employee on active status throughout the period of rehabilitation if it is appropriately determined that the employee's current use of alcohol or drugs prevents the employee from performing his or her duties or that such active status constitutes a direct threat to the property or safety of others.
- If discipline is imposed, the degree of discipline may be based on the circumstances surrounding the violation of this Policy, the employee's work history and current performance levels, past violations of employment policies and an overall review of the employee's work records. However, the City reserves the right to impose any discipline it deems appropriate to maintain a drug-free workplace.



City of Naperville  
Employee Policy Manual

### 11.1.11 Drug-Free Workplace Policy - Medical Review Officer

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Document Owner: HR Generalist  
Approved by: City Manager

Version: 1  
Effective Date: 10/19/2004

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**Printed copies are for reference only. The official version of the Employee Policy Manual is located at <http://mcweb1>.**

- The laboratory results of any employee drug test ordered pursuant to this policy will be reported only to the City's Medical Review Officer (MRO).
- The MRO will be a licensed physician who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an employee's failed attempt to take drug or alcohol tests. The MRO will also have sufficient training to interpret confirmed positive drug test results considering the employee's medical history and any other relevant biomedical information.
- Before the MRO reports any confirmed positive test result from an employee drug test to the City, the MRO will review the test result to determine if there is a reasonably possible alternate medical cause for the positive result.
- The MRO will report the positive test results to the employee and give him or her the opportunity to provide a list of all medications or drugs he or she is taking according to a physician's order.
- The MRO will review all records made available by the employee to determine whether the positive indication could have reasonably been caused by the use of drugs according to a physician's order.
- In cases of final determinations that indicate the presence of illegal drugs or a drug level exceeding that set forth in Section 11.1.12 of this Policy, the MRO will report the results of the drug tests to the City's Human Resources Director, and will also provide a copy of the confirmed test results to the employee.
- Test results that are not positive will be deemed "negative," reported as a final negative determination, and will also be communicated to the City's Human Resources Director through the MRO. The MRO will promptly transmit a negative finding to the employee or prospective employee as well.
- Where the MRO provides the City with negative test results, all such results, including results involving medical use or administration of controlled substances, will be transmitted to the City's Human Resources Director over the MRO's signature in a manner that does not disclose medical use of drugs that is permitted by the City's policies.

- Except as provided in this Policy, the MRO will not disclose any medical information provided by the employee to the MRO as part of the testing verification process to any third party.
- The Human Resources Director will communicate the MRO's report to the Department Director who ordered the drug test.



City of Naperville  
Employee Policy Manual

**11.1.8 Drug-Free Workplace Policy - Order to Submit to Testing**

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**Document Owner: HR Generalist**  
**Approved by: City Manager**

**Version: 1**  
**Effective Date: 10/19/2004**

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**Printed copies are for reference only. The official version of the Employee Policy Manual is located at <http://mcweb1>.**

- Where an employee is ordered to submit to testing authorized pursuant to this Policy, the City will provide the employee, within 48 hours after the testing, with a written copy of the order, which will set forth a general statement of the basis of the order to test.
- The employee will not waive any objection or rights that he or she may have by submitting to testing as ordered.



City of Naperville  
Employee Policy Manual

### 11.1.12 Drug-Free Workplace Policy - Positive Test Results

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Approved by: City Manager

Version: 1  
Effective Date: 10/19/2004

Printed copies are for reference only. The official version of the Employee Policy Manual is located at <http://mcweb1>.

- A drug test will be deemed positive if it indicates the presence of any illegal drug, or any drug levels in excess of the following standards:

	Initial Test Level (ng/ml) (Screening)	Confirmation Level
Marijuana Metabolites	50 ng	15 ng
Cocaine Metabolites	300 ng	150 ng
Opiates	2000 ng	2000 ng
Phencyclidine (PCP)	25 ng	25 ng
Amphetamines	1000 ng	500 ng

- When an employee fails to provide the MRO with verification that the presence of drugs in a confirmed test sample is caused by the lawful use of drugs, an employee will be presumed to have tested positive.
- Upon the employee's request, full information concerning the test or tests will be made available to the employee, his or her attorney, or union representative.
- Any additional or alternative tests must be requested by the employee within seventy-two (72) hours after notification of the positive result by the MRO. Such tests will be conducted at the employee's own expense, and will be inadmissible as evidence at any disciplinary hearing on the issue of drug or alcohol intoxication unless the test result is certified accurate by a DHHS certified laboratory and the tester is available for cross-examination at the hearing.



City of Naperville  
Employee Policy Manual

**11.1.14 Drug-Free Workplace Policy - Right to Contest**

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**Effective Date: 10/19/2004**

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**Printed copies are for reference only. The official version of the Employee Policy Manual is located at <http://mcweb1>.**

- Where disciplinary action is taken against an employee for violation of this Policy, the employee will be entitled to an opportunity to explain or challenge the drug or alcohol test results in accordance with this Policy.
- Any disciplinary action or employee grievance resulting from a violation of this Policy will proceed in accordance with this Section, the Fair Labor Standards Act, and to the extent not inconsistent with this Section, in accordance with the employee's rights under Chapter 6 of the Employee Policy Manual.



City of Naperville  
Employee Policy Manual

**11.1.15 Drug-Free Workplace Policy - Rights Retained**

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**Printed copies are for reference only. The official version of the Employee Policy Manual is located at <http://mcweb1>.**

- This Policy is in no way intended to restrict, diminish or otherwise impair any legal rights that employees may have with respect to drug or alcohol testing, but will govern the standards and procedures used for the implementation of this Policy.
- Employees will retain any such rights as may exist and may pursue the same in their own discretion.



City of Naperville  
Employee Policy Manual

### 11.1.3 Drug-Free Workplace Policy - Specific Policies and Prohibitions

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**Printed copies are for reference only. The official version of the Employee Policy Manual is located at <http://mcweb1>.**

- Employees are strictly prohibited from possessing, consuming or using any illegal drugs or controlled substances as defined in this policy, or any prescribed or over the counter drug or medication that has been illegally obtained or is being used in an improper manner. "Controlled substances" include, but are not limited to marijuana, cocaine, opiates, phencyclidine, and amphetamines.
- The City further prohibits all employees from being impaired by or consuming alcohol, drugs, or any combination thereof, in the workplace, or at any time during the workday.
- The workplace includes but is not limited to any City work site, vehicles, parking areas, buildings, any non-City owned property where the employee is present on City business, or wherever the employee may be located during a work shift.
- The workday includes any time during a work shift, including meal and rest periods.
- Every employee will report to his or her supervisor any known or anticipated adverse side effects of medication or prescription drugs that he or she is taking that will interfere with the ability to perform job duties safely. The employee need not disclose the underlying medical condition or prescription drug but must disclose job-related restrictions.
- The City Manager or his/her designee will provide supervisory training to assist in identifying and addressing alcohol and drug use by employees.
- Any employee violating a criminal drug statute in a City workplace will inform the City of any conviction, guilty pleas or findings, and orders of supervision, probation or conditional discharge on such drug charges, or reduced charges, within five (5) days after the plea or order is entered.
- Pursuant to The Drug-Free Workplace Act, the City Manager or his designee will notify the appropriate federal or state contracting or granting agency within ten (10) days after receiving such notice from an employee or otherwise receiving notice of such a conviction.

- The city may offer participation in an approved rehabilitation or drug abuse assistance program as an alternative to discipline to those employees violating a criminal drug statute in a city workplace.
- If such a program is offered to, and accepted by the employee, then the employee must satisfactorily participate in the program and enter into a "Last Chance Agreement" in a form approved by the City Attorney as a condition of continued employment.
- It shall be the city's policy to discipline or terminate any employee who violates any of the specific policies and prohibitions enumerated above. As an alternative to termination, and at the sole discretion of the department Director and the HR Director, the city may offer participation in an approved rehabilitation or drug-use assistance-program as an alternative to termination. The decision to offer such a program shall not be automatic and will be made on a case-by-case basis.



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Employee Policy Manual

**11.1 Drug-Free Workplace Policy**

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City of Naperville  
Employee Policy Manual

## 11. Drug-Free Workplace Policy

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[Drug-Free Workplace Policy - Definitions](#)

[Drug-Free Workplace Policy - DOT Driver Drug and Alcohol Testing Policy](#)

[Appendix 1 to the DOT Driver Policy - Signs and Symptoms of a Drug or Alcohol Problem](#)

[Appendix 2 to the DOT Driver Policy - List of Local Area Agencies, Treatment Programs, AA/NA Groups](#)

[Appendix 2 to the DOT Driver Policy - Certificate of Receipt & Authorization for Release of Alcohol and Controlled Substances Test Information](#)

[Appendix 2 to the DOT Driver Policy - Accident Instructions for Drivers](#)

[Appendix 2 to the DOT Driver Policy - Applicant Consent Form for Drug and Alcohol Information from Previous Employers](#)



City of Naperville  
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### 11.2.6 Drug-Free Workplace Policy - DOT Driver Drug and Alcohol Testing Policy - Consequences of Positives and Violations

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Printed copies are for reference only. The official version of the Employee Policy Manual is located at <http://mcweb1>.

- If a driver tests positive or violates the prohibitions set forth above, the driver will be immediately removed from the performance of any safety-sensitive functions, advised of available resources for evaluating and resolving alcohol and drug problems, and referred to the SAP. Depending on the circumstances, the driver may also be subject to appropriate disciplinary action up to and including termination of employment (pursuant to the City's policy, and subject to any applicable collective bargaining agreement provisions regarding discipline). If a driver tests positive or violates the prohibitions set forth above, but is not reinstated or discharged, the driver must provide documentation from the SAP that he/she is successfully participating in and/or has completed any and all treatments, evaluations, consultations, and rehabilitation programs, and pass return-to-duty tests, before the driver can return to duty.
- If a driver takes an alcohol test that results in an alcohol concentration of .02 or more, but less than .04, the driver will immediately be removed from the performance of safety-sensitive functions for at least twenty-four (24) hours, or the start of the driver's next regular shift (whichever is later). Depending on the circumstances, the driver may also be advised of available resources for evaluating and resolving drug-alcohol problems, be referred to the SAP, and/or disciplined, up to and including discharge (pursuant to the City's independent authority, and subject to any applicable collective bargaining agreement provisions regarding discipline).
- If a test is canceled or invalid, a driver will not be disciplined because of the test results.
- Applicants who fail or refuse to cooperate in a pre-employment drug test will not be hired and, pursuant to the City's independent authority, will not be allowed to reapply for six (6) months.
- In the first such instance of an employee testing positive on both the Initial and Confirmatory tests for alcohol or drugs, he or she shall be subject to termination from employment.

As an alternative to termination, and at the sole discretion of the department Director and the HR Director, the city may in the first instance of violation of the policy above, offer

the employee help through the city's Employee Assistance Program (EAP), provided the employee:

1. Enters into a "Last Chance Agreement" in a form approved by the City Attorney;
2. Agrees to comply with all of the terms and conditions of the treatment program; and,
3. Agrees to be tested for drugs and alcohol on a random basis at any point during the treatment program before returning to work, and for a period of three (3) years thereafter.

The decision to offer this alternative to termination shall not be automatically granted and shall be made on a case-by-case basis.

- Subject to the City's and the Department's leave of absence policies, the city will grant the employee a leave of absence for a period of up to thirty (30) days to complete primary treatment. An employee will otherwise be allowed to use all accrued sick leave, vacation, PTO and personal time off while attending a treatment program, and will be granted FMLA leave (to the extent applicable) or an unpaid leave of absence to complete such program after exhausting such paid time off. The City's obligation to pay for treatment for alcohol/substance abuse shall be limited to services provided by the City's medical insurance plan.
- The employee will return to regular work duties only with the recommendation of the Substance Abuse Professional (SAP) and after successful completion of a return-to-service medical examination, including testing negative for alcohol and drugs and follow-up testing if recommended by the SAP.
- The city will not grant more than one "Last Chance Agreement" to an employee during his or her employment with the city.
- Referrals to Substance Abuse Professionals will be confidential to the extent allowed by law.
- This Section will not be construed as an obligation on the part of the City to retain an employee on active status throughout the period of rehabilitation if it is appropriately determined that the employee's current use of alcohol or drugs prevents such individual from performing his or her duties or that such active status constitutes a direct threat to the property or safety of others.



City of Naperville  
Employee Policy Manual

**11.2.9 11.2.9 Drug-Free Workplace Policy - DOT Driver Drug and Alcohol Testing Policy - Times When Drivers are Required to Comply with this Policy**

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DOT regulations require drivers to be in compliance in connection with their performance of safety-sensitive functions. A driver may be directed to take a random, reasonable suspicion, or follow-up alcohol test while the driver is performing a safety-sensitive function, or just before and just after performing such a function. A driver may be required to take drug tests and other alcohol tests at anytime.



City of Naperville  
Employee Policy Manual

### 11.2.5 Drug-Free Workplace Policy - DOT Driver Drug and Alcohol Testing Policy - Circumstances under Which Drivers are Subject to Testing

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- **Pre-employment:** Applicants for driver positions (including current employees) must pass a drug test before performing a safety-sensitive function. Applicants must also authorize prior employer(s) to disclose positive test results and refusals to cooperate.
- **Post-accident:** If a driver is in an accident involving a City commercial motor vehicle (CMV) that results in a fatality, or is ticketed after an accident that results in bodily injury to a person who immediately receives emergency medical treatment away from the accident scene or damage to a vehicle that requires the vehicle to be towed away from the accident scene, the driver must take an alcohol test within two (2) hours and a drug test within thirty-two (32) hours. The driver must notify his/her direct supervisor as soon as safely possible after any such accident.
- **Random:** Each year, at least 10% of the City's drivers will have to take random alcohol tests; at least 50% will have to take random drug tests. These tests will be unannounced, spread throughout the year, and all drivers will have an equal chance of selection.
- **Reasonable Suspicion:** If a driver is reasonably suspected by a trained supervisor of using drugs or alcohol in violation of the prohibitions set forth above, the driver must take a drug and/or alcohol test.
- **Return-to-duty and follow-up:** Before a driver can return to work following a positive drug and/or alcohol test, the driver must take and pass another drug and/or alcohol test. The driver will also have to take unannounced follow-up tests for at least one (1) year, at least six (6) times during that year, and would still be subject to random selection. (The driver may have to take them for five (5) years as established by a substance abuse professional.)
- These tests are MANDATORY.



City of Naperville  
Employee Policy Manual

**11.2.12 Drug-Free Workplace Policy - DOT Driver Drug and Alcohol Testing Policy - Effects and Dangers of Alcohol Misuse and Drug Use**

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Alcohol misuse and drug use have a number of serious and harmful effects on health, work and personal life. Those effects are summarized in 11.2.12A, Appendix 1.



City of Naperville  
Employee Policy Manual

### 11.2.8 Drug-Free Workplace Policy - DOT Driver Drug and Alcohol Testing Policy - Summary of Alcohol Collection and Testing Procedures

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All laboratories that conduct alcohol testing for drivers of a CMV are expected to comply with federal testing procedures (49 C.F.R. § 40.81).

- A screening test will be done first. If the screen test result is less than .02, the driver will have passed the alcohol test, and the technician will notify the City in a confidential manner.
- If the screening result is .02 or greater, the driver will have to take a confirmation test after waiting 15 minutes. During that waiting period, the driver should **not** eat, drink, put anything in his/her mouth, or belch (to prevent an accumulation of mouth alcohol that may lead to an artificially high reading).
- Before the confirmation test, the BAT will run an air blank test on that EBT to ensure that the EBT is working correctly.
- For the confirmation test (same as for the screening test), the driver must exhale into a mouthpiece until the BAT directs the driver to stop. The BAT will then show the driver the displayed and printed results. The results of the confirmation test, not the screen test, are determinative, and will be communicated by the technician to the City in a confidential manner. A result under .02 means the driver passed. If the result is .02 or more, or the driver refuses to cooperate, the driver is subject to the CONSEQUENCES described in Section 11.2.7.
- If the driver fails to provide a sufficient breath specimen, the technician will direct the driver to try again. If the driver still does not provide an adequate specimen, the failure will be noted on the Alcohol Testing Form, testing will stop, and the City will be notified. The driver then will be sent for an evaluation by a licensed physician who is acceptable to the City and has expertise in the medical issues raised by the driver's failure to provide a sufficient specimen. The driver must obtain the evaluation within five (5) days. If the physician reports to the City that a legitimate medical condition has, or it is highly probable that it could have prevented the driver from providing a sufficient specimen, the test will be canceled. If there is not an adequate basis for determining that a legitimate medical explanation has or could have prevented the driver from providing a sufficient specimen, the driver will be deemed to have refused to cooperate.

- For positive results, all information that the substance abuse professional obtains through the alcohol testing evaluation that is unrelated to the driver's use of illegal drugs or alcohol will be kept confidential and will not be disclosed to the City.



City of Naperville  
Employee Policy Manual

### 11.2.10 Drug-Free Workplace Policy - DOT Driver Drug and Alcohol Testing Policy - Summary of Drug Testing Collection and Procedures

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- If a driver is subject to drug testing, the driver will be sent or escorted to a City designated collection site where the driver will have to verify his/her identity and otherwise cooperate in the site's normal urine specimen collection procedures. The driver's urine specimen will be collected by a trained collection site person ("CSP") in accordance with DOT regulations, using a Drug Testing Custody and Control Form ("CCF"). The employee should ensure that the entries on the CCF are accurate and that his/her specimen is identified with the same number as appears on the CCF.
- The driver will be given a wrapped or sealed collection container and allowed to provide a urine specimen in private unless: the driver submits a specimen which is outside of the acceptable 90 degree to 100 degree temperature range; the driver has attempted to tamper with a specimen; the driver's original test result was canceled because the test of the split specimen could not be performed or the driver's prior specimen was invalid.
- If the driver does not provide a large enough specimen (at least 45 ml), the CSP will discard the specimen (except where the specimen was out of the acceptable temperature range or showed evidence of tampering), direct the driver to drink up to forty (40) ounces over a period of up to three (3) hours, or until the driver provides an adequate specimen, whichever occurs first. Refusal to drink is not considered a refusal to test, although a sample must be produced by the end of the three hour waiting period. If the driver still does not provide an adequate specimen, testing will stop and the driver will be directed to obtain an evaluation by the MRO or a licensed physician, acceptable to the MRO, who has expertise in the medical issues raised by the driver's failure to provide a sufficient specimen. The driver must obtain the evaluation within five (5) days. If the MRO determines, or the physician reports to the MRO, that a medical condition has, or it is highly probable a legitimate medical condition could have, prevented the driver from providing a sufficient specimen, the test will be canceled, and no further action will be taken. If there is not an adequate basis to determine that a medical condition has, or it is highly probable that a medical condition could have, prevented the driver from providing a sufficient specimen, the driver will be deemed to have refused to cooperate.
- If the driver refuses to attempt to provide a new specimen, the CSP will terminate the collection and notify the City that the driver has refused to cooperate.

- If the driver provides a urine specimen that has a temperature outside the acceptable range or 90 to 100 degrees Fahrenheit or shows signs of tampering, the driver will have to provide a new specimen under (same gender) direct observation.
- If the driver does provide an adequate specimen, it will be poured into two containers, which will be sealed and labeled with a unique specimen number in the driver's presence. The driver then will be told to initial the specimen containers. The driver and the CSP also will fill out and sign portions of the CCF that identifies the driver and the driver's specimen.
- Both specimen containers will be sent in a sealed plastic bag to a federally-certified laboratory for analysis. The lab will check the CCF and the driver's specimen for any correctable or fatal flaws. The lab will also conduct validity testing to determine if a primary specimen is adulterated, dilute, or substituted. If the specimen is suitable for testing, the lab will run a screen test on it. If the screen test is negative, the lab will report the driver has passed the drug test. If the screen test is positive, the lab will confirm the driver's specimen using gas chromatography/mass spectrometry. The lab will send the test results to the MRO.
- After completing the medical review process, the MRO will disclose the final test results to the City. The driver can get a copy of the results from the City.