

City of New Castle

2013

Version

EMPLOYEE HANDBOOK

Appendix A: Drug and Alcohol Testing Policy

**Adopted by the Board of Works
April 15, 2013**

Mayor Greg York

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CHAPTER 1 – INTRODUCTION

§1.1 Introduction and Purpose

The purpose of the Employee Handbook (hereinafter referred to as “Handbook”) is to provide a consistent, systematic, and organized approach to the establishment, implementation, and administration of the personnel policies of the City of New Castle. It is written, adopted, and interpreted exclusively by the Mayor, the Board of Public Works and Safety, and their designees, and is not subject to modification, change, or contrary interpretation by any employee or employee representative organization.

The City’s personnel policies reflect its belief that its employees are its most valuable asset. This handbook will (1) answer some of the questions employees will have, (2) provide information the City believes employees should know about their employment, and (3) inform employees of some of the rules, regulations and policies related to their employment.

The matters discussed in the handbook are of great importance, but are not, and are not intended to be, a complete list of all of the City’s rules, regulations and policies. The City will modify its policies, benefits and rules as necessary. Every employee is expected to comply with each of the rules and policies discussed in this Handbook as well as any others adopted by the City, at its discretion. You should understand that a violation of any of the City’s rules or policies may result in disciplinary action up to and including discharge.

Each individual employed by the City must comply, as a condition of employment, with the provisions of this Handbook and any related procedures and work rules and must perform his/her assigned duties in a responsible manner creditable to the City. As such, all City employees are expected to become knowledgeable of the contents and abide by the policies set forth in this Handbook. Any questions, concerns or lack of understanding about a particular provision of this handbook should be promptly discussed with your Supervisor.

Further questions relating to the purpose, goals and/or interpretation of the policies contained in this Handbook should be directed to the Director of Personnel.

§1.2 Organization and Responsibility

The City of New Castle is governed by the Mayor, City Council, and the Board of Public Works and Safety. The Mayor is responsible for the general administration of city business. The City council, which is comprised of seven (7) elected members, is responsible for legislative procedures that include, but are not limited to, budgets and ordinances. The Board of Public Works and Safety is comprised of three (3) members including the Mayor and two members appointed by the Mayor and is responsible for public works and safety. Under the directions of the City council, the Clerk-Treasurer is responsible for administering the City's budget.

The City is organized into various departments or offices to ensure adequate expertise, specialization, and efficient functioning. These departments or offices function under the administrative guidance and control of Department managers who are appointed by the Mayor and who are responsible for the day-to-day management and operation of the City of New Castle.

Employees are primarily responsible to their immediate supervisor for completion of specific work assignments and the quality, quantity and timeliness of the work performed.

§1.3 Policy Handbook Administration

In order to effectively implement the policies and procedures in this handbook and to oversee its administration on a day-to-day basis, the following procedures will be taken:

- A copy of this handbook shall be given to all current employees of the city and to all new employees, including full-time, part-time and any

reserve employees. All employees who receive a copy of this handbook must, as a condition of employment, sign a document acknowledging that they received a copy of the Handbook.

- The policies and procedures in this Handbook may be revised as the City deems necessary. Only the Board of Public Works and Safety has the authority to revise these policies and procedures.
- It is the obligation of each employee to know and be aware of the conditions of employment of the City of New Castle which are: to know the days of the week they are to work; the hours of the day and the time they are to clock in and out; the location of their clock point and/or squad room; to report to work on time, dressed appropriately for their job assignment; and to act in a manner appropriate to perform their duties. Any employee failing to comply with the conditions of employment is subject to disciplinary action up to and including discharge.
- Employees are encouraged to make suggestions for improvements in personnel policies and practices. Suggestions should be given in writing to a Supervisor and should include an explanation of how such a change could benefit the City, your department, and/or the public. Suggestions should then matriculate through the office of the Director of Personnel.

§1.4

Equal Employment Opportunity

A. Equal Employment Opportunity Policy

It is the City's policy that, as required by law, equal employment opportunities be available to all persons without regard to race, sex, age, color, religion, national origin, disability, citizenship status, or any other category protected under state or local law. This policy applies to employees and applicants and to all phases of employment including hiring, promotion, demotion, treatment during employment, rates of pay or other forms of

compensation, and termination of employment. The city will take appropriate steps to provide reasonable accommodations upon request to qualified individuals with disabilities so long as doing so does not cause an undue hardship for the City.

B. Anti-Harassment Policy

The city is further committed to providing a workplace free of harassment of any employee because of the employee's race, sex, religion, age, national origin, disability, or any other category protected under federal, state, or local law. To be unlawful, harassing conduct must be sufficiently severe and pervasive to unreasonably interfere with an employee's ability to work. The City, however, does not condone or tolerate any harassing conduct based on an employee's race, sex, religion, age, national origin, disability, or any other category protected under federal, state, or local law.

Harassing conduct may include, among other things, (1) name-calling, slurs, stereotyping, or threatening, intimidating, or hostile acts that relate to race, sex, age, religion, national origin, or disability; (2) written or graphic material that belittles or shows hostility or aversion toward an individual or group because of race, sex, age, religion, national origin, or disability; and (3) any other hazing or other such behavior that creates a hostile work environment. The City is committed to protecting employees from such harassment whether from other employees or non-employees such as vendors, contractors, visitors, citizens, or officials.

Specifically included in this policy is a commitment to provide a workplace free of sexual harassment. Such harassing conduct may include, among other things:

- Unsolicited and unwelcome comments or conduct of a sexual nature or that are demeaning to women or men as a group (for example, offensive or vulgar jokes, name-calling, comments about one's body or sex life, stereotyping based on a person's sex, touching, leering, ogling, patting, pinching, indecent exposure, physical gestures, or displaying sexually explicit photographs or objects that might interfere

with a reasonable person's work);

- Unsolicited and unwelcome demands or requests for sexual favors or social or sexual encounters;
- An explicit or implicit promise of preferential treatment with regard to a person's employment in exchange for sexual favors or sexual activity; and
- The use of an employee's or applicant's submission to or rejection of sexual conduct as a basis for making, influencing, or affecting an employment decision that has an impact upon the terms and conditions of the individual's employment (for example, hiring, firing, promotion, demotion, compensation, benefits, or working conditions).

Given the nature of this type of conduct and the serious effects such conduct can have on the person harassed and the accused, the city treats alleged violations of this policy seriously and, to the extent possible, confidentially. The city expects all individuals to treat alleged violations in the same responsible manner.

If you believe you or any other employee is being subjected to conduct or comments that violate this policy, you have a responsibility to immediately report these matters to your Department Manager. If for any reason you do not feel comfortable reporting your concerns to your Department Manager you may report your concerns to the Director of Personnel or the City Attorney. Supervisors who become aware of any potential violation of this policy must report the potential violation to the Director of Personnel or the City Attorney. Failure to report violations will result in appropriate discipline up to and including discharge.

No action will be taken against any employee because he or she reports, in good faith, behavior believed to violate this policy. All employees are assured that action will be taken to investigate and resolve complaints and that the City is firm in its commitment to maintaining an environment free of discrimination and harassment. Violations of this policy will not be tolerated and will result in appropriate disciplinary action up to and including discharge. Ba

faith reporting is strictly prohibited and could result in disciplinary action up to and including termination of employment. Employees are expected to cooperate in all investigations and failure to cooperate can lead to disciplinary action. Please help us maintain a comfortable work environment free from discrimination and harassment.

C. Non-discriminatory Service Policy

The City of New Castle is committed to ensuring that all citizens, visitors, contractors, suppliers, or other individuals who are served by the City or provide products or services to the city are treated with the highest regard irrespective of their race, sex, age, color, religion, national origin, ancestry, disability, or any other category protected by law. It is the responsibility of all managers and employees to treat all persons equally in providing service to them. All individuals will be provided the same rights, privileges, and services; unless an individual's medical condition poses a threat to the health and safety of the individual, employees, or the public, or disrupts the orderly flow of the City's business.

§1.5 Drug/Alcohol Free Workplace

The Common Council of the City of New Castle has enacted Drug/Alcohol Free Workplace policies for all City employees. Certain employees of the Transportation Department follow a federally mandated program available upon hire, during annual training and upon request to the Transportation Manager for review. All others should refer to Appendix A of this handbook.

§1.6 Electronic Information Systems Policy

E-mail, computers, voice mail systems and all telecommunications (telephone, pagers, cell phones, etc.) purchased by the City are City property and are intended for business, not personal, use. The systems are not to be used for personal use unless specifically authorized by management. Employees have no

right of privacy as to any information or file maintained in or on the City's property or transmitted or stored through the City's electronic information systems or other technical resources. Employees will maintain the confidentiality of City owned information, passwords, authorization codes, software licenses or other information that may reasonably be determined to be confidential information

The City strives to maintain a workplace free of harassment and is sensitive to the diversity of its employees and customers. Therefore, the City prohibits the use of its electronic information systems in ways that are unlawful, disruptive, offensive to others, or harmful to morale. For example, the display or translation of images, messages, and cartoons that may offend others because of their sex, race, age, national origin, disability, or religion is prohibited. Such misuse includes, but is not limited to, ethnic or racial slurs, racial or sexual comments or jokes, or any other communication that shows disrespect for others on the basis of sex, race, national origin, disability, religion or age.

Employees should remember that when they are using the City's electronic information systems, they are creating City documents by using City property. These documents are not private and may be read by others at the City and, under some circumstances, by others outside the City government.

Employees should also be aware that even though a message may be deleted from the system, a record of it may remain either on the daily backups of all data or in other ways. It is possible to re-create a "deleted" message. Therefore, ultimate privacy of messages is not assured to anyone.

In the event that any employee is using the City's electronic information systems to communicate with legal counsel, all messages should be marked with the following in capital letters at the top of the message: "CONFIDENTIAL COMMUNICATION—ATTORNEY/CLIENT PRIVILEGE." In addition, such messages should not be sent to a distribution list, should not be forwarded to anyone else, and should not be retained on the system.

Under certain circumstances, the City may access information stored in its electronic information systems. While it is impossible to list all of the circumstances

under which access may occur, some examples follow:

- During regular maintenance of the system.
- When the City has a business need to access the employee's mailbox or computer files; for example, if the employee is absent from the office and the supervisor has a reason to believe that information relevant to the day's business is located in the employee's files. Although electronic systems may accommodate the use of passwords for security, confidentiality is not guaranteed. All passwords must be made known to your supervisor because your system may need to be accessed in your absence.
- When the City receives a legal request to disclose electronic information.
- When the City has reason to believe that employees are using its electronic information systems or other technical resources in violation of the City's policies.

Employees may not download pornography or use e-mail to send or receive any material of a sexual nature. Employees may not install software brought from home, etc. onto City computers or use City computers to gamble online. Access to third party web based e-mail (e.g. Hotmail, Yahoo Mail, etc.) is prohibited unless specifically authorized. Employees may not use unauthorized instant messaging software. Employees may not download and install games, screensaver programs, instant messaging software, e-mail software, or other software onto their computers from the internet. The following software, without limitation, is expressly prohibited (there will be no exceptions): Kazza; Napster; Incredimail; Bit Torrent; All Search Bars; Popup Blocking Software; Date Manager; Weather Bug; and Gator or Gain software products. Any employee using encryption software must submit copies of the public and private encryption keys and the password for opening these keys to the City for storage in a secure location.

Employees may not share passwords with any other employee except authorized supervisory or administrative personnel. Passwords will not be written

down and stored in plain sight, under the computer keyboard or desk calendar or stored on an employee's desktop. All passwords should contain upper and lower case letters, numbers, and punctuation symbols. Passwords should not include any of the following: names; real words; social security numbers; drivers license numbers; birthdays; pet names; family member names; other easily identifiable information.

The Department Manager, Director of Public Works and Director of Personnel are responsible for the implementation and enforcement of this policy.

Because of the rapidly changing nature of the use of electronic information systems, this policy cannot lay down rules to govern every possible situation. Instead, it expresses the City's philosophy and sets forth general principles to be applied to the use of electronic information systems and other technical resources. Where appropriate, this policy will be modified and you will be notified.

Violations of this policy may result in disciplinary action up to and including termination. Employees learning of any misuse of the City's electronic information systems or a violation of this policy must notify the City of such misuse or violation immediately.

Law Enforcement officers who need access to prohibited resources in order to effectively investigate a potential crime must submit a written request to the officer's supervisor and the City's designated information technology supervisor. The request must contain a valid open case number. The request must be approved by both the officer's supervisor and the City's information technology supervisor.

§1.7 Workplace Violence Policy

Nothing is more important to the City of New Castle than the safety and security of its citizens and employees. Threatening, intimidating, malicious, or violent behavior directed toward employees or other individuals by anyone on City property or during work time will not be tolerated.

The purpose of this policy is to minimize the potential risk of personal injuries to employees or to others and to reduce the possibility of damage to City property in the event someone, for whatever reason, may be unhappy with a City decision or action by an employee or member of management.

The City will initiate a decisive and appropriate response to inappropriate behavior. This response may include, but is not limited to, suspension and/or termination of a business relationship, reassignment of job duties, suspension or termination of employment, and/or criminal prosecution of the person(s) involved.

All employees are responsible for notifying their supervisor or the Director of Personnel of any violations of this policy. Possible violations include threatening, intimidating, malicious, or violent behavior of which an employee has been the target, has committed, has witnessed, or has heard about from another individual if the behavior is job related or has been or might be carried out on City property or work time. Employees are responsible for making this report regardless of the relationship between the individual who initiated the inappropriate behavior and the person who was the target of the behavior.

Employees may not bring weapons, such as knives or firearms, onto City property (including City parking lots) unless possessing such a weapon is a requirement of the employee's job (police officer) or prior authorization has been granted by the Board of Public Works and Safety.

If you receive or overhear threatening communications from an employee or outside third party, report it to your supervisor immediately. Do not engage in either physical or verbal confrontation with a potentially violent individual. If you encounter an individual who is threatening immediate harm to an employee or anyone else on City premises, contact law enforcement (911) immediately.

All reports of work-related threats will be kept confidential, to the extent possible, investigated, responded to, and documented. Employees are expected to report and participate in an investigation of any suspected or actual cases of workplace violence.

Violations of this policy, including your failure to report or fully cooperate in the City's investigation, may result in disciplinary action up to and including

immediate discharge.

The City expects all employees to help create a safe and secure work environment and reduce the risk of threatening, intimidating, malicious, or violent behavior that may affect the City's employees and those who interact with employees by complying with the letter and spirit of the policy.

§1.8 Employee Conduct Toward Management

Any employee engaging in harassment, intimidation, verbal abuse or any language by an employee directed to Management or administrative personnel of the City of New Castle that appears to be threatening or disruptive to Management's efforts to manage the affairs of the City; either on City property or off City property; shall be subject to disciplinary action up to and including immediate discharge.

CHAPTER 2 – EMPLOYMENT INFORMATION

§2.1 Prerequisites for Employment

In the event that minimum requirements and qualifications of a classification are changed by external law or technological advancement, it shall be the sole responsibility of the employee to meet such new requirements within a reasonable period of time and maintain such qualifications. Employees failing to maintain the minimum requirements and qualifications of their classification in an agreed upon amount of time may be subject to reduction in position, provided there is a vacancy for which they are qualified. The city has no obligation to create a vacancy for an employee failing to maintain the qualifications of his/her job.

An employee who is reduced in position shall receive the rate of pay of the classification to which he/she is reduced. All employees are expected to make reasonable and diligent efforts to maintain the qualification of their current classification.

§2.2 Personal and Family Relationships

A current employee's immediate family members are eligible for employment with the City. Immediate family for this policy includes:

Spouse	Children	Step-children
Mother	Father	Brother
Sister	Son-in-law	Daughter-in-law
Grandparents	Mother-in-law	Father-in-law
Grandchild		

Full-time or part-time employees hired after August 1, 2006 will not be allowed to work under the direct supervision of an immediate family member.

When a situation that runs contrary to the above policy arises through promotion, transfer, or marriage, the affected individuals have one month in which to settle the issue voluntarily – that is, by having one of them request a transfer or termination. If the affected parties are unable to resolve the situation within one month, their immediate supervisor will review the case with the Mayor and make a decision concerning which employee is to be transferred or terminated. Such decision by the Mayor will be binding and is not reviewable.

§2.3 VACANCIES AND APPOINTMENTS

In the event the Mayor and/or Department heads determine that a job opening exists (after fulfilling contractual obligations with bargaining units), Administration shall be contacted concerning recruitment efforts. Management Policy 2.1 must be followed. If appropriate, Administration may post the job opening notice for a reasonable period of time at the City's facilities and may

advertise the position vacancy in area newspapers or through an outside agency. The notice shall include the date of posting, a reference number, and the date the notice expires. This procedure may not apply to Mayoral appointments.

Any person interested in applying for the job opening must complete a written job application and submit it to the Director of Personnel or the designated agency by the close of business on the last day of posting. Administration shall maintain an easily referenced filing system for all applications and shall distribute acceptable applications to the appropriate Department Head for interview scheduling and reference/background checks after the posting expires.

Persons who submit an application for a job opening may be subject to a personal interview, a drug screening, criminal records check, and other evaluations that may include a physical examination.

The Department Head and/or Personnel Director will determine the qualifications desired for the vacancy by reviewing the position description and will evaluate the relative qualifications of the applicants. Criteria used in evaluating an applicant's qualifications may include, without limitation, such considerations as evaluations, aptitude, attendance records, education, training, prior work experience history, and length of service with the City and the particular Department or office.

Administration reserves the right to not fill a vacancy if it is determined that no applicant possesses the desired qualifications.

§2.4 WORK ASSIGNMENTS

Employees are expected to satisfactorily perform tasks as assigned to them by the Supervisors, or any individual properly vested with such authority. The Supervisor has exclusive control of assigning and allocating work assignments, work crews, vehicles, and equipment. Employees who are members of a bargaining unit contracted with the City should refer to their contract regarding how job assignments are filled with personnel. Non-represented employees are

assigned to jobs at the discretion of the Department Head. Employees are not permitted to use paid days off, vacation time or any other leave time to avoid certain work assignments. Employees attempting to do so will be disciplined for insubordination. Use of any leave time during the shift must be scheduled prior to the shift or a documented bona fide reason must exist. This may require obtaining a doctor's statement. Based upon the needs of the City as determined by the Mayor and/or the Supervisors, the City may transfer permanently or temporarily positions from one department to another, and may, in its sole discretion, add or delete job duties assigned to employees. The duty to collectively bargain on the impact of such changes may apply with some bargaining unit members.

§2.5 HOURS OF WORK

The hours of work, including the work day, work week, and work shift for all employees, is established by the supervisor of each City office or department and approved by the Board of Public Works and Safety. For operational needs and/or in emergencies, the City may establish other work hours, days, or weeks on a temporary or permanent basis.

Each supervisor will track time of employees under his/her charge and provide this information to the Clerk-Treasurer for allocation purposes.

Non-exempt employees can not work "off the clock" without payment or compensatory time-off; therefore, all overtime must be approved in advance by the supervisor except under emergency conditions.

Mandatory overtime is a condition of continuing employment.

Full time employees are generally expected to work an 8 hour day, unless a different schedule is approved by the Department manager. The schedules of non-represented part-time employees may vary and no minimum number of work hours is guaranteed or implied. Time of day that lunch is taken will depend upon the departments and employee's responsibilities and day-to-day assignments unless otherwise agreed by collective bargaining.

All employees working a regularly scheduled day may take a morning and afternoon break, each to last no more than (15) minutes in length. Break times will be at the discretion of the Supervisor or person designated by the Supervisor. There may be days when circumstances prevent breaks. Break times are paid, however, no accumulation of break time is allowed.

§2.6 Length of Service

Length of service is defined for purposes of the Handbook as the uninterrupted length of continuous employment by the City of New Castle. An authorized Leave of Absence does not constitute a break in service. Time continues to accumulate during the term of the leave provided that the employee returns to service following the authorized leave. Length of service may be used to calculate benefits such as longevity pay or retirement benefit eligibility. This policy should not be confused with seniority rights or other full-time employee benefits available to some bargaining unit members.

If an employee is terminated from employment for any reason other than layoff, a break in service occurs. However, if the employee is rehired within one year of the termination, continuous service is not deemed to have been broken and credit is retained for such prior service but he/she receives no credit for time spent while not employed by the City. Length of Service is determined beginning with the employee's first day of actual employment upon being rehired. An employee who is rehired within two (2) years of the date of layoff retains previously accumulated service time but receives no credit for time spent while on layoff.

§2.7 PERFORMANCE REVIEWS

Administration and Department Heads evaluate the performance of employees at regular intervals or when determined necessary. Performance evaluations provide both employees and their supervisors with the opportunity to discuss job tasks, identify and correct weaknesses, encourage and recognize strengths, and discuss methods for improving performance. Performance evaluations are performed outside of the scope of

disciplinary action and thus are not maintained as such in the employees Central Personnel File. Evaluations are a method of training and will be maintained as training records. They will not be used as a basis for any disciplinary action or commendation. Please understand that a positive performance evaluation does not guarantee an increase in salary, a promotion, or even continued employment. Compensation increases and the terms and conditions of employment, including job assignments, transfers, promotions, and demotions, are determined by and at the discretion of the Mayor or his/her designee subject only to the terms of applicable labor contracts.

The Department Head will review the written performance appraisal with the employee and both the employee and the Department head will sign the appraisal. The employee's signature on the performance appraisal does not necessarily indicate agreement with the evaluation. It only indicates that the evaluation has been discussed with him/her. The employee shall have the opportunity to respond within a reasonable period of time to the evaluation and provide documentation to support specific responses.

§2.8 PERSONNEL RECORDS

Official Personnel Files shall be confidentially maintained on all employees by the Director of Personnel. Such records may include information such as applications for employment, letters of reference, performance evaluations, disciplinary actions or letters of commendation, training documents, and miscellaneous personnel forms and records. Entries into the personnel file shall be a permanent matter of record unless otherwise specified by union contract and negotiation.

Medical information will be maintained in a separate file in accordance with the Americans With Disabilities regulations and HIPPA.

Employees must notify the Personnel Office as soon as practicable of any change in name, address, home telephone number, marital status, citizenship, tax exemptions or number of dependents, military status, loss of license or insurability, personal physician, or person to contact in case of emergency.

Superintendents and Managers of City departments and offices may also maintain a Supervisory File on an employee. Supervisory file entries will be expunged one (1) year from date of occurrence.

An employee may inspect, with a supervisor present, his/her personnel file and any supervisory file (documentation) kept pertaining to the employee. This shall be done with a written request to inspect that will be signed off when the inspection is complete. The employee may access such files quarterly in this manner.

§2.9 MINIMUM QUALIFICATIONS

It is the responsibility of employees to maintain the minimum qualifications of their classification as established by the written job description and/or mandated by State or Federal law. Administration shall determine the qualifications and requirements for each classification in the City. Employees failing to maintain the minimum qualifications of their classification or who do not comply with State or Federal requirements may be subject to layoff, termination of employment or a reduction of position. If a vacancy exists in a classification for which the employee is qualified, the employee may be recommended for the position by the Department Head, with final approval granted by the Director of Personnel. Certain employees, by contract, may return to an open position (if qualified) created by the filling of their original position through the job posting cycle. An employee who is terminated pursuant to this section may reapply for employment upon meeting the minimum requirements of the classification. An employee who is reduced in position shall receive the rate of pay of the new classification and may apply for his/her former position when a vacancy becomes available and the requirements of the position have been met. All employees are expected to make reasonable and diligent efforts to maintain the qualifications of their current classification.

CHAPTER 3 – GENERAL WORK POLICIES

§3.1 EMERGENCY CLOSINGS

The closing of any City Department or certain operations of a department, because of emergencies, must be approved by the Mayor or his/her designee in advance. Affected Department Heads will be responsible for coordinating closings. Emergencies may include, but are not limited to, extreme weather conditions (snow, tornado, flood,) and equipment failure. The Department Head or that person's designee will contact affected employees in his/her department about emergency closings as soon as possible. In this event, such employees will be paid an amount equal to what they would have been paid if they had worked their regular scheduled hours for that day. Employees arriving late due to weather must use accrued vacation or compensatory leave for the difference between their actual arrival time and their scheduled time. Employees who arrive to work and are subsequently released early (due to emergency) by the Department Head (or designee) will receive an excused absence with pay for the remainder of the work day. Employees who call to advise that they are unable to report to work due to inclement weather must make alternate arrangements for transportation by contacting the Department Head or supervisor on duty. If it is the opinion of the supervisor on duty that the employee's arrival is not achievable, then the employee will be excused for the day with pay.

§3.2 EMPLOYEE ACCIDENTS

All accidents, which include any event that is not expected, foreseen, or intended, must be reported immediately to the Department Head. The accident must be reported whether or not there is personal or physical damage involved. A near miss, where the potential for injury or damage exists, is to be reported as well. Accidents and near misses are investigated to eliminate unsafe conditions and unsafe acts. If a supervisor is not available, report the accident or near miss to the

Director of Public Works or the Director of Personnel. The employee must then provide a written statement as to the facts and circumstances surrounding the accident or injury. Any property damage that occurs must be promptly reported to the Mayor.

Any injury that happens on the job or on City property or while conducting City business, no matter how slight, must be reported immediately to a supervisor so the employee may receive prompt and proper medical attention. The supervisor must promptly report the accident to the Director of Personnel or the Mayor. An employee may be required to go to a City-chosen physician for initial treatment and any City-required follow-up examination. If supervision determines that medical attention is needed, the employee must comply with the supervisor's decision. Refusal to have medical attention may result in disciplinary action. A First Report of Injury, Supervisor's Report of Injury and Authorization to Release Medical Information form must be completed and processed for worker's compensation within 24 hours. Subsequent re-opening of a worker's compensation claim must be approved by the Director of Personnel.

§3.3 OUTSIDE EMPLOYMENT

You must immediately report in writing to your Department Head any outside work activities in which you engage on your own time outside of your employment with the City that might compromise City interests or adversely affect your job performance. You may not, for example, hold any other employment or engage in any personal business, including as an independent contractor, that would create an actual or a potential conflict (or the appearance of a conflict) of interest with your City employment. If you are contemplating engaging in outside work and are uncertain whether the work would create a conflict of interest or involve a person or entity doing business with the City, you must promptly discuss the situation with your Department Head, the Director of Personnel, or the Mayor. You should consider whether the demands of that work will interfere in any way with your employment at the City or will interfere with your ability to properly and efficiently

perform your duties and responsibilities in accordance with the policies, hours (including overtime) and objectives of the City department or office where you work. Outside work will not be considered an excuse for poor job performance, absence, tardiness, leaving early, refusing to travel, or refusing to work overtime or a changed schedule. Interfering outside employment may result in disciplinary action.

§3.4 SMOKING POLICY

Use of tobacco products by an employee or non-employee shall be prohibited in all areas and facilities of the City that are designated as “non-smoking” areas. Employees who indulge in the use of chewing tobacco and snuff-type tobacco products will not use such products without providing for a suitable receptacle for residue that your supervisor determines is not offensive to co-workers. Spitting on the floor or in work areas is prohibited. Any employee may make a written request to the City that a work area be designated as a non-smoking area.

§3.5 USE OF VEHICLES

Any employee of the City who is required to operate a City vehicle in the course of their employment shall be subject to the following conditions and restrictions:

- Verification of driving record and status of driver’s license through the Bureau of Motor Vehicles at least annually;
- Use of seat belts by all drivers and front seat passengers;
- Reassignment or other appropriate personnel action if the employee’s license is revoked or suspended for any reason or if the employee is convicted of a traffic violation;
- Employees who are required to operate City vehicles during the course of their employment must immediately report any condition that adversely affects their ability to

operate vehicle(s) and/or equipment;

- Must be able to meet insurability standards/requirements of the City liability insurance provider; and
- Have and maintain an appropriate and valid Indiana driver's license meeting the qualification for their position or classification.

In addition, employees must use assigned City vehicles for the purpose(s) authorized and must not permit unauthorized passengers in the City vehicles. City vehicles are not for personal use. Any City vehicle used to drive out-of-state must have prior approval of the Mayor. Employees will be reimbursed for necessary emergency road service and repairs, and parking. Reimbursement for highway related tolls require appropriate receipts. Any employee who receives a traffic citation while driving a City vehicle is personally responsible for paying the citation. If the City is at fault for the citation the employee may be reimbursed.

In the event of an accident involving a City owned vehicle, employees should do the following:

- Provide any assistance possible to any injured party, call the appropriate law enforcement agency and call for an ambulance if necessary.
- Do not move any vehicles unless instructed to do so by proper police authority.
- Write down all pertinent facts such as the other driver's name, address, telephone number, license plate number, driver's license number, social security number and name of insurance company and policy number, as well as the name(s), telephone number and address of any injured party or witness.
- Do **NOT** admit any fault or make any oral or written statements (including an apology) but simply give your name, address, telephone number, etc., as required.
- Notify your supervisor and submit a written report as soon as possible. And,
- You may be required to submit to a drug and/or alcohol test.

Employees of the City who are assigned a City vehicle for "duty-to-home" travel are subject to applicable Internal Revenue Service rulings regarding such usage.

Any exception to this policy must be approved in advance by the Mayor.

§3.6 CDL Requirements

It is a minimum qualification that a candidate for employment or promotion to the following classifications possesses and thereafter maintains a Commercial Driver's License valid in the State of Indiana:

1. IN ANY DEPARTMENT – Class A or B: Truck Driver, Equipment Operator, Heavy Equipment Operator, Vactor Operator, Mechanic, Mechanic Helper, Laborer, Groundskeeper I and Sanitation Driver.

2. TRANSPORTATION DEPARTMENT – Class A or B with Public Passenger Endorsement: Full Time Driver, Full Time Relief Driver, Mechanic, Dispatcher, Part -Time Driver.

§3.7 CITY PROPERTY

Employees are prohibited from using and loaning City vehicles, materials, tools, equipment, and labor for personal or private use regardless of whether it is during work or non-work time. Employees may not perform work during scheduled work hours that is not related to City business. This prohibits any employee from performing private work for themselves, another employee, or a non-employee during scheduled work hours.

Employees are advised that all facilities, including all equipment, lockers, desks and other furniture remain the sole property of the City. The City reserves the right to open, inspect and/or examine all facilities and contents therein at any time for legitimate business reasons, including investigating alleged work-related

misconduct.

Any exception to this policy must be approved in advance by the Board of Public Works.

§3.8 SOLICITATION

Employees of the City are not permitted to engage in solicitation of other employees for any activity during work time. Employees may conduct solicitation in work areas but only if the employees(s) doing the soliciting or the employee(s) being solicited are not on work time. The solicitation and distribution must be non-coercive and consented to by the employee being solicited. There shall be no distribution of literature by employees on working time or in working areas at any time.

The Mayor or Department Heads may regulate solicitation and distribution activity by any employee or non-employee which disrupts or interferes with the normal work of the City on its premises or in areas under the operational control of the City. "Solicitation": as used in this policy includes, but is not limited to, any act which requests, urges, or seeks to induce, in any way, any employee to give/or pay or obligate to pay money for any cause/reason or to sign any document indicating membership in any organization, association/group, or indicating support for or a pledge to any such organization, association, or group unless work related (for the purpose of this policy, Union work is considered work related so long as it does not disrupt or interfere with normal work).

§3.9 Confidentiality

Discussing or revealing confidential business or personnel matters with individuals outside of the City or with individuals within the City who are not authorized to have such information is prohibited and such behavior is subject to disciplinary action up to and possibly including dismissal.

Communication and Correspondence

A City employee shall not enter into official correspondence involving a City Department name over his/her own signature, nor shall he/she convey official departmental communications via telephone or otherwise, except with permission of the manager or supervisor of that department. All letters referring to departmental activities, cases, operation, business, etc., shall be forwarded to the manager/supervisor of the department for approval prior to distribution.

§3.10 RESIGNATION

In the event an employee intends to resign, he or she should notify their supervisor and the Director of Personnel, as appropriate, in writing at least two (2) weeks in advance. Failure to give proper notice may jeopardize any future re-employment with the City of New Castle.

§3.11 RE-EMPLOYMENT

Any person seeking re-employment must apply and be processed as any other applicant. No preferential treatment or special consideration will be given to those applying for re-employment solely on the basis of the applicant having been previously employed with the City, nor will the necessity of any form or procedure be eliminated by virtue of the applicant being previously employed by the City. Once an employee leaves the employment of the City and is subsequently re-hired, City provided benefits for re-employment will be considered as a new employee.

§3.12 COOPERATION WITH INVESTIGATIONS

From time to time when problems such as (but without limitation) theft, dishonesty, destruction of property, or alcohol or drug use arise, the City may require your full cooperation in an investigation. All employees requested to cooperate in such an investigation are expected, as a condition of employment, to cooperate fully. Such

cooperation may include submitting to searches of your personal property and City property. The rule is for the protection of employees, the City and New Castle citizens. Employees who do not cooperate with investigations are subject to disciplinary actions, up to and including suspension or termination.

§3.13 PERSONAL APPEARANCE

The City believes that appropriate dress and personal grooming ensure safe working conditions and create a favorable image for the City. You are expected to maintain high standards of personal cleanliness and attire. Personal cleanliness includes regular bathing, dental hygiene, and freshly laundered clothing. The City reserves the right to determine that particular attire is inappropriate for its business or work classification, and, to inform you of this and ask that your attire be changed if it is not appropriate.

§3.14 NON-REPRESENTED GRIEVANCE PROCEDURE

The grievance procedure is a communications process for hearing the grievable claims of non-represented employees.

A. **Purpose** – In any organization, there may be honest differences of opinion about working conditions, discipline, rules and other personnel issues. Employees must be committed to open communication and continually seek opportunities to improve job performance. The object of the grievance process is to reach a fair and equitable decision in a timely manner. The employee and supervisor should make an effort to resolve any grievance informally, orally, before initiating a formal procedure.

B. Filing

1. If a complaint is not resolved orally between an employee and his/her immediate supervisor, a written grievance must be submitted to the employee's department/office manager within ten (10) days of the occurrence of the event giving rise to the grievance, or within ten (10) days after becoming aware of the event. The written grievance statement shall identify the name and position of the employee, the date

and time of the incident or occurrence, a statement of the facts, and the remedy that the employee seeks. The supervisor shall conduct a review of the matter and, if necessary, meet with all involved parties to bring about a mutually acceptable solution within seven (7) days of receipt of the complaint, unless additional time is necessary, as determined by the supervisor.

2. If the matter remains unresolved, the employee may submit the grievance to the Director of Personnel, whichever is appropriate for the employee's department, within 5 days of receipt of the decision of the supervisor. The Director shall review the grievance and the steps taken, and shall render a decision within seven (7) days of receipt of the grievance.

3. If the matter still remains unresolved, the employee may submit the grievance, within 5 days of the decision of the Director, to the Mayor. The Mayor shall make a decision within fourteen (14) days of receipt of the grievance. The Mayor's decision shall be final.

§3.15 HEALTH AND SAFETY

It is the desire of the City of New Castle to maintain the highest standards of safety and health in each Department, in order to eliminate as much as possible accidents, death, injuries, and illness in City operations. Each department manager, their assistant(s) and supervisors shall report any unsafe situations in writing affecting the following: operations, premises, buildings/facilities, equipment, vehicles, or any other condition which might cause accidents, death, injuries, and illness. All should be reported, through the department head, to the Director of Public Works. If budgeted monies are not available to replace or repair unsafe conditions, the situation shall be forwarded to the Board of Public Works and Safety for a decision.

§3.16 VISITORS WHILE WORKING

Persons visiting City departments must park in designated areas. Visitors entering work areas are required to sign a log book maintained by each department. No visitors are allowed to enter employee work areas without prior approval of the Department Manager or their assigned replacement. All employees on vacation or sick leave or employees of other departments must enter through the office or otherwise "main" door and may enter work areas only with permission of the Department Manager. In the absence of the Department manager or his/her assistant, permission must be received from the Director of Public Works or the Director of Personnel. Children must be accompanied by an adult, guardian or attendant. City Employees are not permitted to "babysit" children while on duty without written permission from the Director of Personnel.

§3.17 TELEPHONE USE

Prompt and efficient telephone service is an important part of our office operations. We ask your help in keeping the lines clear for business calls. Please tell your family and friends to not call you during working hours except in emergency. Personal calls should be made only on break or during lunchtime unless they are made with your supervisor's approval.

§3.18 MEDIA RELATIONS

The Police and Fire Chiefs, their officers in charge, or their designees shall cooperate with the news media representatives and shall in no way obstruct or impede efforts to obtain unclassified information, as long as it does not interfere with personal safety, emergency duties or investigations.

Press conferences and news releases must be given by the Mayor or the Mayor's designee (Director of Personnel, Director of Public Works, City Attorney, respectively); or reviewed and authorized by the Mayor or the Mayor's designee for release by a department manager or supervisor.

§3.19 UNITED STATES FLAG

The United States Flag shall be flown on a daily basis by each department, except for just cause.

CHAPTER 4 – EMPLOYEE ATTENDANCE AND CONDUCT

§4.1 Ethics/Conflict of Interest

In order to maintain the integrity of City government and administration as well as the confidence that the public has in it, it is essential that employees of the City not use their positions for personal gain. In order to achieve this goal, all employees must act in an ethical manner and avoid conflicts of interest as is provided by Indiana law.

No employee shall use his/her official position for personal gain, participate directly or indirectly in any activity which is in conflict with his/her official duties, or disclose confidential information regarding the business of the City to any private concern for his/her personal benefit.

Any employee who has an interest in or wishes to be employed by any private interest with which the City does business, or any employee who acts as an agent for or render services on behalf of any private interest where such activities would be incompatible with the duties and responsibilities of the employee or the City must submit a disclosure statement to the Mayor for prior approval.

Any employee found to be in violation of this section shall be subject to possible disciplinary action up to, and including, termination.

Any employee who has a question as to whether or not his/her actions or activities are in violation of this section should direct such inquiry to the Director of Public Works, Director of Personnel, Mayor, or City Attorney.

§4.2 Political Activity

City employees are prohibited from using their position or time during working hours for political activity. Employees paid partially or wholly from federal funds may be prohibited from running for public office or from soliciting funds for political campaigns by the Hatch Act and related laws.

§4.3 Absenteeism and Tardiness

The City requires employees to report for work punctually as scheduled by their supervisor and to work all scheduled hours and any required overtime. Excessive or habitual tardiness and poor attendance will not be tolerated.

§4.4 Excused Absence

For any absence to be considered "excused," you must notify your supervisor PRIOR to the starting time of your regular shift or at a time established by the supervisor. Exceptions will be made only in unusual or extenuating circumstances. If your immediate supervisor is not available, another member of management must be contacted.

Excused absences require prior supervisor approval except in unusual or extenuating circumstances.

Excused absences include generally:

- * Family and Medical Leave Act absences
- * Military service
- * Jury service
- * Sick leave
- * Bereavement leave

- * Medical leave
- * Vacation
- * Any absence excused by a particular State or Federal law
- * An approved Leave of Absence

§4.5 Unexcused Absence

An unexcused absence occurs when you fail to notify your supervisor you will be unable to work or your absence is unapproved. You will not be paid for unexcused absences.

If you are absent from work for three or more consecutive days with an unexcused absence or without notification, you may be considered as having voluntarily quit. At that time, the City will advise the employee of the termination of the employment relationship by certified mail.

§4.6 Family and Medical Leaves of Absence

An employee may be eligible for leaves of absence caused by certain family or medical reasons as provided by the Family and Medical Leave Act, as it may be amended from time to time or replaced (Pub. L. 103-3, Feb. 5, 1993, 107 Stat, 6; currently codified at 29 U.S.C. Sec. 2601, et seq.) and the relevant regulations (as currently codified in 29.CFR). THE WRITTEN DESCRIPTION SET OUT BELOW IS NOT INTENDED TO PROVIDE ANY BENEFITS NOT REQUIRED BY LAW.

Insurance coverage will be continued during such leave; to the extent that employees not on leave are required to make any co-payments to maintain insurance coverage, you will be required to do so while on leave. No additional benefits such as holiday or vacation time will be accrued or paid during the leave of absence. In some instances the law allows the City to recover premiums paid for

an employee who fails to return to work after FMLA leave.

Eligible employees will be granted up to twelve (12) unpaid work weeks of leave during any twelve (12) month period to recover from a serious health condition, care for a newly born or adopted son or daughter, or care for a spouse, parent, son or daughter who is suffering from a serious health condition. A leave is equally available to men and women.

In any case in which a husband and wife entitled to family leave are both employed by the City, the aggregate number of work weeks of leave to which both may be entitled may be limited to twelve (12) weeks during any twelve (12) month period if such leave is taken because of the birth of a child or placement for adoption or foster care of a child.

To qualify for this leave, the following stipulations apply:

- (A) An employee must have been employed by the City for at least twelve (12) months and have worked at least 1250 hours during the twelve (12) months before the leave is requested.
- (B) The parent must be the biological parent of the employee or an individual who stood in place of a person standing in as a parent.
- (C) The son or daughter must be the biological, adopted or foster child, a stepchild, a legal ward, child of a person standing in as a parent.
- (D) A serious health condition is an illness, impairment, or physical or mental condition involving either inpatient care or continuing treatment by a health care provider.
- (E) This request must be returned to the Board of Public Works and Safety at least thirty (30) days in advance of the leave, this request must be returned to the Board of Public Works and Safety as soon as practical. In the event of an emergency, you must provide notice to the Board of Public Works and Safety as soon as possible after the need arises. In any event, the Board must be advised within forty-eight (48) hours or by the next business day after the occurrence of the emergency necessitating the leave.
- (F) Employees must use all his/her paid vacation and personal paid days off

and then may use up to fifty percent of accumulated sick leave, to a maximum of thirty (30) days for any part of the twelve week mandated period, before going on unpaid leave. A twelve-week extension may be granted in exceptional circumstances.

- (G) In addition to the request for the leave, employees must provide documentation from a health care provider stating that he/she is unable to perform his/her job duties because of the serious health condition or that the employee is needed to care for the family member.
- (H) Employees are to return to either the same or equivalent position when the leave ends.
- (I) The employee will be responsible for his/her share of health insurance costs during the leave, if they are eligible.
- (J) It is intended that this ARTICLE comply with the Family and Medical Leave Act of 1993 and the Employer may promulgate policies in furtherance of the Family and Medical Leave Act that are not inconsistent with the agreement.

In addition, the City may require you to obtain additional medical certifications at the City's expense. The medical certification must be completed prior to the leave if the need for the leave is foreseeable, or as soon as practicable if the leave is not foreseeable. If you fail to provide the required certifications, your leave may be delayed or denied. If you fail to obtain your return to work fitness certification, your return to work will be delayed.

Authorized absences for family or medical leave will be considered excused absences for purposes of the City's attendance policies. But whenever the need for leave is for planned or periodic medical treatments of a serious health condition, you must schedule treatments to minimize any absence from work and so as not to disrupt the operations of the City.

If you find that you do not require the amount of time originally contemplated for your FMLA leave, it is your responsibility to notify the department head in writing immediately. The City requires a minimum of two (2) days notice of your intent to

return to work early.

Whenever an employee is eligible for leave pursuant to the Family and Medical Leave Act, and is also eligible for another type of leave under different City policies, it is the City's intent that the leaves will run concurrently. For further information you should review the applicable law and regulations. You may also contact the entity responsible for enforcement, currently the United States Department of Labor, 200 Constitution Avenue NW, Washington D.C. 20210. Their phone number is 1-866-487-2365.

§4.7 Maternity Leave

An employee who becomes pregnant may continue working until she or her doctor determines that she is physically unable to perform the essential duties of the job for which she was hired without restrictions. Maternity leave will be granted by first using accrued leave. After paid leave is used, additional maternity leave allowed will be without pay and pursuant to Family and Medical Leave Act policies.

§4.8 Discipline/Termination/Work Rules

Union-represented employees should refer to their local contract or bargaining unit representative for information regarding disciplinary policies.

The City of New Castle hopes that your working relationship with the City will be mutually satisfactory. However, your employment will continue only so long as you are satisfied with the City, and the City is satisfied with your performance. Just as you may resign at any time, the City may terminate your employment relationship at any time. The City of New Castle cannot promise continued employment for a specific period of time.

We expect all employees to follow our established policies, procedures, and rules and to act in a professional manner at all times. The City also expects employees to perform their assigned duties in an efficient, effective, and competent

manner. There may be occasions, however, where employees perform at an unsatisfactory level, violate a City policy, or behave inappropriately. The City will endeavor, when it deems appropriate, to provide employees with reasonable opportunities to correct their deficiencies.

It is the desire of the City to, as often as is appropriate; follow a progressive discipline policy with employees who break work rules, regulations and policies. The City does, however, reserve the right to evaluate each incident on a case-by-case basis and take appropriate disciplinary action, up to and including dismissal, based upon the severity and frequency of the conduct being taken into consideration. Progressive discipline will be as follows:

- Written Warning
- Written Reprimand
- Suspension Without Pay
- Termination/Dismissal

Under certain circumstances, and at the discretion of the Director of Personnel, a recommendation may be made to demote and/or place an employee on Disciplinary Probation in lieu of termination.

Whenever a disciplinary action is documented, you will be asked to acknowledge that you have been given a copy of the document by signing the original. Your signature will not signify your agreement with the contents of the document, only that it has been discussed with you.

If you know or should have known that your behavior was in violation of a City rule, policy or practice, or was in violation of a state or federal law, you may be subject to immediate discipline, up to and including immediate discharge. The work rules set forth below are intended to provide you with fair notice of what is expected of you. It is not possible, however, to provide an exhaustive list of all types of impermissible conduct and performance, and these work rules are only examples of behaviors that are specifically unacceptable and, if found to exist, can result in disciplinary action up to and including immediate discharge. You should,

therefore, be aware that conduct not specifically listed below, but which adversely affects or is otherwise detrimental to the interests of the City, other employees, or customers may result in disciplinary action, including discharge.

- A. **Attendance** – Engaging in a pattern of absenteeism/tardiness/leaving early.
- B. **Confidential Matters** – Discussing or revealing confidential business matters with individuals outside of the City or with individuals within the City who are not authorized to have such information or violating the City's Ethics/Conflict of Interest Policy.
- C. **Criminal Activity** – Being convicted of or pleading guilty to crime that reflects unfitness for the job or raises a threat to the safety or well-being of the City or its citizens, employees, customers, or property.
- D. **Customer, Public and Coworker Relations** – Mistreating, abusing, or intimidating customers, visitors, contractors, other employees, or the public.
- E. **Detrimental Behavior** – Making false, misleading, or malicious statements about other employees, the City or City practices or engaging in conduct which undermines, or is intended to undermine, the City's reputation.
- F. **Dishonesty** – Falsifying, altering, or making an omission on an employment application or any other City record; giving false information to management personnel or concealing defective work.
- G. **Drugs and Alcohol** – Violating the City's and/or Department of Transportation's Drug and Alcohol Abuse Policy.
- H. **Equal Employment Opportunity/Anti-Harassment** – Failing to support the City's Equal Employment Opportunity/Anti-Harassment Policy.
- I. **Fighting** – Fighting, baiting, or other behavior that instigates fighting or other conduct that violates the City's Workplace Violence Policy.
- J. **Mishandling City Property** – Mishandling, misusing, stealing, or

- improperly accounting for the City's money, funds or property.
- K. **Insubordination** – Failing to follow safety instructions or work orders in a timely manner, the condition or practice of not obeying.
 - L. **Failure to Cooperate** – Failing or refusing to cooperate in an investigation conducted by the City.
 - M. **Poor Performance** – Failing to produce quality and timely work or meet performance expectations.
 - N. **Safety Violations** – Failing to use equipment, materials, and supplies in accordance with the City policies and practices; violating safety or health rules or practices or engaging in horseplay or other conduct that creates a safety or health hazard.
 - O. **Unauthorized Use of City Time/Property** – Using time or property for non-work related activities such as gambling, soliciting, etc.; failing to remain alert at all times while on duty.
 - P. **Non-Compliance with Laws/Regulations** – Failing to comply with local, state, and federal laws and/or regulations.

Appendix A

CITY OF NEW CASTLE DRUG AND ALCOHOL TESTING POLICY

1.0 PURPOSE AND SCOPE OF POLICY

1.1 The City of New Castle's Substance Abuse Policy prohibits any City employee from using, being under the influence of, or possessing alcohol or non-prescribed controlled substances during working hours and at all times while in City vehicles or conducting City business. As part of an effort to maintain the quality of City services and to ensure that the City of New Castle is a safe and healthy place to work, a drug and alcohol testing program has been developed to detect the use of illegal substances and misuse of alcohol, to ensure that employees with substance abuse problems are referred to appropriate professional help, and to outline disciplinary procedures for those who fail to comply with the Substance Abuse Policy.

1.2 The United States Department of Transportation (DOT) mandates drug and alcohol testing for employees whose job duties require a commercial driver's license (CDL). The City of New Castle will also test applicants who have been offered employment with the City, and those employees who hold positions that impact public safety or the safety of co-workers (Safety Impact Positions). All City employees will be subject to testing on the basis of reasonable suspicion and after certain accidents occurring within the scope of this policy, as stated in section 1.1.

1.3 As a condition of employment, all City employees will be required to agree in writing to be tested for drugs and/or alcohol as outlined in this policy.

2.0 DEFINITION OF TERMS

For purposes of this policy, the following definitions shall be used:

2.1 Driver – employee who is authorized to operate a City owned vehicle during the course of employment or is required and/or drives their own personal vehicle while conducting City business or is required to maintain a commercial driver license (CDL) as a requirement of his or her job, whether full time, part time, or seasonally. Drivers also include applicants for such positions.

2.2 Drug and Alcohol Testing Administrator (DATA) – City employee(s) appointed by the Mayor to administer all aspects of the City's drug and alcohol testing program and this policy.

2.3 Employee Assistance Program – counseling and referral service designed to assist City employees and their families in overcoming personal problems, including substance abuse problems that are actually or potentially affecting job performance. The City's EAP is offered through Comprehensive Mental Health Services (CMHS).

2.4 Medical Review Officer (MRO) – licensed physician (medical doctor or doctor of osteopathy) with detailed knowledge of substance abuse disorders and drug testing. The MRO will be knowledgeable in the rules of Part 40 and current DOT MRO guidelines; DOT operating administration regulations' and any changes to these. The MRO must have obtained the appropriate qualification training as mandated in CFR Part 40 and complete the continuing education training as prescribed in Part 40 as

amended. The MRO is responsible for interpreting and evaluating confirmed positive laboratory results in the context of the employee's medical history and other relevant biomedical information.

2.5 Negative Alcohol Test - test in which the blood alcohol concentration (BAC) registers less than 0.02% by weight.

2.6 Negative Drug Test - test that fails to detect the presence of one or more illegal drugs or classes of illegal drugs at levels exceeding the cutoff levels established by the Department of Transportation and/or the City of New Castle

2.7 Positive Alcohol Test - test in which the blood alcohol concentration (BAC) registers 0.02% or greater by weight.

2.8 Positive Drug Test - test that detects the presence of one or more illegal drugs or classes of illegal drugs at the cutoff levels established by the Department of Transportation and/or the City of New Castle.

2.9 Possessing - having something on the person or in a place under substantially exclusive control.

2.10 Random Selection - scientifically valid method requiring that all employees in the random selection pool have an equal chance if being drawn in every selection.

2.11 Reasonable Suspicion - circumstances sufficient to cause a reasonable person to suspect that another person has violated the drug and/or alcohol prohibitions in this policy or the City's Substance Abuse Policy.

2.12 Refusing to be Tested - includes any of the following: (1) failing to provide an adequate urine specimen for a drug test without a valid medical explanation, (ii) failing to provide adequate breath for an alcohol test without a valid medical explanation (iii) failing to submit to a test as directed, (iv) engaging in intentional conduct that obstructs the testing process

2.13 Safety-Sensitive Function – any of the following that an employer performs or is required to perform while on the job: (i) driving; (ii) time spent waiting to be dispatched or to perform other activities described in this section; (iii) inspecting, servicing, or conditioning equipment; (iv) being in or on a commercial motor vehicle, (v) loading or unloading, including supervising or assisting in loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or giving or receiving receipts for the shipment being loaded or unloaded; (vi) securing the vehicle and taking all of the precautionary measures required by DOT regulations following an accident; (vii) repairing, obtaining assistance, or attending a disabled vehicle; (viii) controlling dispatch or movement of a vehicle; (viii) carrying a firearm.

2.14 Safety Impact Position - position other than Driver, in which a City employee may have a discernible effect on public safety or on the safety of co-workers (see Appendix A for complete list of Safety Impact Positions)

2.15 Substance Abuse Professional (SAP) – a licensed physician (Medical Doctor or Doctor of Osteopathy); or licensed or certified psychologist, social worker, employee assistance professional; or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other drug Abuse), with knowledge of

and clinical experience in the diagnosis and treatment of drug and alcohol related disorders, who has completed the required qualification training and continued education training as outlined in CFR Part 20, as amended.

3.0 PROHIBITED ACTIVITIES

3.1 The following conduct is strictly prohibited in the circumstances described in section 1.1: (1) using, being under the influence of, or possessing illegal drugs; (ii) using or being under the influence of legal drugs that are being used in a manner other than prescribed; (iii) using or being under the influence of legal drugs whose use can adversely affect the ability of the employee to perform his or her job safely, without disclosing such to a supervisor prior to being detected; (iv) selling, buying, soliciting to buy or sell, transporting, or possessing illegal drugs; (v) using alcohol within four (4) hours before performing a Safety-Sensitive Function or performing in a Safety Impact Position; (vi) using or being under the influence of alcohol at any time while driving or performing any other Safety-Sensitive Function; (vii) consuming any amount of alcohol while on duty, while driving a City vehicle, or while conducting City business (viii) testing positive for illegal drugs and/or alcohol in circumstances that violate this policy; (ix) refusing to be tested for drugs and alcohol; (x) failing to submit to a drug and/or alcohol test as directed by the City; (xi) failing to stay in contact with the City and its Medical Review Officer (MRO) while awaiting the results of a drug test (xii) violating any applicable federal, state, or local requirements governing the use of drugs or alcohol; (xiii) doing anything to obstruct the City's goals with respect to drugs and alcohol; (xiv) failing to report another employee who violates this policy when the employee who fails to report has reasonable suspicion to believe the policy has been violated; (xv) falsely reporting a violation of this policy, if the report is intentionally false.

3.2 An off-duty employee who is called in to work outside regular working

hours, and has consumed alcohol within the past four (4) hours, shall notify his or her supervisor of that fact, and shall not report to work.

3.3 Any employee who violates the prohibitions in this section will be subject to disciplinary action as outlined in the City's Substance Abuse Policy and in section 7.0 of this policy.

4.0 TESTS REQUIRED

4.1 The City will conduct tests under the following conditions (i) after an offer of employment but before an applicant is hired for any position in City government (pre-employment testing), (ii) for reasonable suspicion that the employee is under the influence of drugs or alcohol, (iii) following certain accidents while on duty (post-accident testing), (iv) on a random basis for Drivers and employees in Safety Impact Positions (v) as follow up to substance abuse counseling. The City's procedures and requirements for each test are described below

4.2 Pre-Employment Testing

4.21 This test is required before an applicant seeking a position in City government will be hired. This test is also required before an employee not in a Safety Impact Position, not performing a "safety sensitive function", or not a "driver" is transferred to a Safety Impact Position or a position that may perform "safety sensitive functions" or perform as a "driver". For purposes of the City's policy concerning pre-employment testing, applicants and current employees who are applying for a Safety Impact Position are collectively referred to as "applicant".

4.22 An applicant to whom an offer has been extended will be asked to agree in writing to be tested for drugs and alcohol. The applicant will be notified to report for a drug and alcohol test and given instructions for the collection procedures.

4.23 All offers by the City to hire an applicant, or to transfer an applicant to a safety impact position, safety sensitive functions or driver, are conditioned upon the applicant: (i) agreeing in writing to be tested for drugs and alcohol; (ii) taking a drug and alcohol test as directed by the City and obtaining a negative result; (iii) executing the City's authorization form by which the City obtains past drug and alcohol test results for Drivers; (iv) complying with any other conditions or requirements of which the City advises the applicant at the time of the offer.

4.24 An applicant who refuses or fails to agree in writing to be tested in accordance with this policy, who refuses or fails to execute the City's authorization to obtain past drug or alcohol test results, who refuses or fails to submit to a pre-employment drug test and alcohol test as directed, whose test result(s) is/are positive, or who intentionally obstructs the testing process will be subject to disciplinary action as outlined in section 7.0.

4.25 Any time an employee, in a Driver or Safety Impact Position, or one who performs a safety sensitive function is off for more than 90 consecutive calendar days and plans to return to a Driver or Safety Impact Position, he/she must first successfully pass another pre-employment drug test before returning to duty. Likewise, an applicant, who has not commenced performing a safety-sensitive function within 90 consecutive calendar days of the employer's receipt of a negative test result for that applicant, must successfully pass another pre-employment drug test before performing such safety-sensitive functions.

4.3 Post-Accident Testing

4.31 An employee who is driving during working hours, or at any time in a City vehicle or on City business, must submit to post-accident drug and alcohol tests as soon as possible (within two hours) after an accident as described in sections 4.32 and 4.33. An employee who is not driving, but whose actions are believed to have contributed to the accident may also be tested.

4.32 An employee must submit to a post-accident test as soon as possible after an accident that involves the death of a human being.

4.33 An employee must submit to a post-accident test as soon as possible after an accident whenever (i) the employee receives a citation for a moving violation involving the accident; (ii) an incident occurs resulting in personal injury(vehicular or non-vehicular) and the injuries require immediate medical attention to the person away from the accident scene; (iii) a vehicle owned by the City of New Castle is damaged in the accident; or (iv)one or more motor vehicles involved the accident incur disabling damage and must be transported away from the accident scene by a tow truck or another vehicle

4.34 Whenever an employee is involved in an accident as described in sections 4.32 and 4.33, the employee is required to notify his or her supervisor immediately. The supervisor will make arrangements for drug and/or alcohol tests in compliance with this policy. The employee is not required to delay necessary medical treatment in order to be tested, but should request a drug and alcohol test at the City's expense as a part of any medical treatment.

4.35 An employee who is required to take post-accident drug and alcohol tests will, at the City's discretion, be assigned to an available non-Safety

Impact Position in the employee's department. If no position is available, or if the City so chooses, the employee will be placed on administrative leave with pay while awaiting the test results. If the test results are positive, the employee will not be paid for the period of the leave.

4.36 An employee who refuses or fails to submit to a post-accident drug or alcohol test as required, who unnecessarily delays reporting to the test site following an accident, whose test results are positive, or who intentionally obstructs the testing process will be terminated as outlined in section 7.0.

4.4 Random Testing

4.41 Drivers (See section 2.1) are subject to drug and alcohol testing on a random basis. Employees in Safety Impact Positions (See section 2.14) are subject to random drug testing. Such tests will be given without advance notification. (See Appendix A for complete listing.)

4.42 Random alcohol tests will be performed when the Driver is authorized to perform Safety-Sensitive Functions, just before the driver is to perform Safety-Sensitive Functions, while the driver is performing safety-sensitive functions or just after the driver has ceased performing Safety-Sensitive functions.

4.43 Under the City's random selection process, Drivers and employees in Safety Impact Positions will be kept in separate pools. Within each pool, every employee will have an equal chance of being selected each time a selection is conducted. This means that some covered employees may be randomly selected for testing more than one time annually while others may not be selected at all. Appropriate safeguards will ensure that the identity of individual employees cannot be determined prior to or at the time of their selection.

4.44 An employee who refuses to submit to a random test, who fails to

report for the test as directed, who tests positive, or who intentionally obstructs the testing process will be terminated as outlined in section 7.0.

4.5 Reasonable Suspicion Testing

4.51 Each employee will be required to submit to a drug and/or alcohol test whenever the City has reasonable suspicion to believe the employee has used drugs and/or alcohol in violation of the City's Substance Abuse Policy or this policy

4.52 Reasonable suspicion will exist when an employee's appearance, behavior, speech, or body odor indicates drug or alcohol use.

4.53 When an employee is notified that reasonable suspicion exists for testing, he or she will be transported immediately to the test site to be tested for drugs and/or alcohol. The City will make arrangements to transport the employee home after the test. The employee will not be allowed to drive home unless the test is completed and demonstrates conclusively that the employee has not violated this policy.

4.54 An employee who is required to take a reasonable suspicion test will be considered at that time unqualified for work and will immediately be placed on administrative leave with pay pending the outcome of the test. If the test result is positive, the employee will not be paid for the period of the leave.

4.55 An employee who refuses or fails to submit to a reasonable suspicion test, whose test is positive, or who intentionally obstructs the testing process will be terminated as outlined in section 7.0.

5.0 TESTING METHODOLOGY AND INTEGRITY

5.1 To ensure the integrity and accuracy of each test all specimen collection, analysis, and laboratory procedures will be conducted in accordance with DOT protocols. This includes, among other things: (i) procedures to ensure the correct identity of each covered employee at the time of testing, (ii) a chain-of-custody procedure to ensure that the specimen is not mishandled, contaminated, or tampered with, (iii) the use of a trained Breath Alcohol Technician (BAT) and DOT-approved testing devices for conducting alcohol tests; (iv) use of a laboratory that has been certified by the National Institute for Drug Abuse (NIDA) for drug tests, (v) confirmation of an initial positive drug screen by a second analysis using gas chromatography/mass spectrometry (GCMS); (vi) confirmation of an initial positive alcohol screen by a second analysis, (vii) appointment of a qualified Medical Review Officer (MRO) to review drug tests results before they are reported to the City's designated Drug and Alcohol Testing Administrator (DATA).

5.2 Drug Tests

5.21 All drug tests conducted under this policy require the employee to provide a specimen of his or her urine.

5.22 Before being tested by the City, each employee will be required to: (i) present his or her personal identification and (ii) execute a Drug Testing Custody and Control Form provided by collection site personnel. An employee, who refuses to provide his or her identification, provides a false identification, refuses to execute a Custody and Control Form, or who otherwise refuses or fails to cooperate will be treated as though he or she has tested positive and will be subject to disciplinary action as outlined in section 7.0.

5.23 At a minimum, urine specimens will be analyzed for the presence of the following drugs: (i)marijuana; (ii)cocaine;(iii)opiates;(iv)amphetamines;(v)phencyclidine(PCP).

Specimens may also be analyzed for such other substances as may be required or permitted by state or federal law and necessary to enforce the City's Substance Abuse Policy. The City reserves the right to begin testing immediately for other illegal substances without prior notice.

5.24 Employees will be permitted to give a urine specimen in private and without being directly observed by collection site personnel, unless such personnel have reason to believe the employee is attempting to tamper with the specimen.

5.25 All drug tests will be administered using the split sample, methodology required by DOT. Under: this methodology the employee must provide at least 45 milliliters (ml) of urine in a specimen container. The specimen will then be divided into two bottles by collection site personnel. Thirty (30) ml will be poured into one bottle and 15 ml into the second bottle. Both bottles will be sent to the same laboratory. At the laboratory, the bottle, containing 30 ml will be divided in half and analyzed as the employee's primary specimen. If the first test yields positive results, the second half of the primary specimen will be analyzed at the same laboratory using GCMS technology. In the event the primary specimen is confirmed positive by GCMS, the employee will be notified by the City's MRO and given the option of having the second bottle sent to a different laboratory for analysis. To exercise this option the employee must advise the City's MRO in writing within 72 hours of being told that the primary specimen is positive.

5.26 Employees are responsible for knowing the contents, appropriate dosage, and, effects of prescription and non-prescription medications. Nothing in this policy prohibits employee's use of a medication legally

prescribed by a licensed physician (i) who is familiar with the employee's history and, specific duties and (ii) who has advised the employee that the prescribed medication will not adversely affect the employee's ability to perform his or her duties safely. Under the City's Substance Abuse Policy, employees are required to inform their supervisors of prescription and non-prescription medications that may impact their ability to perform essential job functions. Medications prescribed for someone other than the employee will not be considered lawfully used under any circumstances.

5.27 Before being tested for drugs, employees will be given an opportunity to list, on their copy of the chain-of-custody form, any prescription and non-prescription medications being lawfully used by that employee at that time. A positive drug test may be declared negative by the City's MRO if the employee can prove with clear and convincing evidence that the drug which was used was prescribed by a licensed physician who is familiar with the employee's medical history and specific duties. This determination will be solely the responsibility of the City's MRO.

5.28 In the event an employee is unable to produce 45 ml of urine within a two-hour period, the employee will be required to submit to an evaluation by a licensed physician selected by the City to determine whether a valid medical condition exists to explain the problem. If the physician determines a valid medical condition does exist, the test result will be reported to the City as "negative". If the physician determines a valid medical condition does not exist, the employee will be terminated, as outlined in section 7.0, for refusing to be tested.

5.3 Alcohol Tests

5.31 All alcohol tests conducted by, or on behalf of the City under this policy require that the employee provide a breath specimen. In the case of an alcohol test conducted by a law enforcement officer following an accident, the employee shall provide either a breath or blood specimen, as

requested by the officer.

5.32 Alcohol tests will be administered by a breath alcohol technician (BAT) using an evidential breath testing device (EBT).

5.33 Before being tested by the City, each employee will be required to: (1) present his or her personal identification and (ii) execute a Breath Alcohol Test Form provided by the BAT. An employee who refuses to provide his or her identification provides a false identification, refuses to execute a Breath Alcohol Test Form, or who otherwise refuses or fails to cooperate will be treated as though he or she has tested positive and will be subject to disciplinary action as outlined in section 7.0.

5.34 Prior to each alcohol breath test conducted by the City using an EBT, the BAT will instruct the employee on how to provide an adequate breath sample

5.35 The BAT will open an individually-sealed mouthpiece and attach it to the testing device within the employee's view. The employee will then be directed to blow forcefully into the mouthpiece until an adequate amount of breath has been maintained. If the initial test registered an alcohol concentration level 0.02% or greater by weight, a second, confirmatory breath test will be performed within twenty (20) minutes of the initial test. The result of the confirmatory test will be deemed the final result.

5.36 In the event an employee is unable to provide an adequate amount of breath for the initial or confirmatory test after several attempts, the employee will be required to submit to an evaluation by a licensed physician selected by the City to determine whether a valid medical condition exists to explain the problem. If the physician determines a valid medical condition does exist, the test result will be reported to the City as "negative". If the physician determines a valid medical condition does not

exist, the employee will be subject to disciplinary action, as outlined in section 7.0, for refusing to be tested.

6.0 TEST RESULTS

6.1 Drug Tests

6.11 Before an employee's test result will be confirmed positive for drugs, the employee will be given an opportunity to speak with the City's MRO and demonstrate a legitimate medical explanation for the positive result. If the MRO determines that a legitimate medical reason does exist; the test result will be reported to the City as "negative". If the MRO determines that a legitimate medical reason does not exist, the test result will be reported to the City as "confirmed positive".

6.12 If the employee's primary specimen tests positive, the employee will be notified by the City's MRO and advised that he or she has 72 hours to request in writing that the secondary specimen be sent to a different NIDA, DHHS certified laboratory for analysis. Pending the outcome of the additional analysis, the employee will be suspended without pay. If the final test result is negative, the employee will be paid for the period of the suspension.

6.2 Alcohol Tests

6.21 If an employee provides an adequate breath specimen and the initial test registers an alcohol concentration level less than 0.02% by weight, the test results will be reported as "negative" and no further testing will be required at that time.

6.22 If an employee provides an adequate breath specimen and the initial test registers an alcohol concentration level 0.02% or

greater by weight, a second confirmatory breath test will be performed. If the employee provides an adequate breath specimen and the confirmatory test registers less than 0.02% by weight, the test results will be reported as "negative" and no further testing will be required at that time.

6.23 An employee whose confirmatory test registers 0.02% or greater by weight will be subject to disciplinary action as outlined in section 7.

7.0 DISCIPLINARY ACTION

7.1 Employees and applicants who refuse or fail to agree in writing to be tested for drugs or to comply with the drug testing procedures outlined above will be terminated or removed from the application process.

7.2 Employees and applicants who test positive for drugs in violation of this policy will be subject to the following disciplinary action:

7.21 An applicant whose test results under this policy are confirmed positive will be removed from the application process.

7.22 An employee whose test results under this policy are confirmed positive will be terminated and referred to a Substance Abuse Professional.

7.3 Employees who refuse or fail to agree in writing to be tested for alcohol or to comply with the alcohol testing procedures outlined above shall be terminated.

7.4 Employees who test positive for alcohol will be subject to the following disciplinary action.

7.41 For the first occasion in which an employee records a blood alcohol Concentration (BAC) between 0.02% and 0.039% by weight; the employee will be (i) suspended without pay for 5 work days, (ii) required to submit to another test upon return to duty; (iii) subject to additional discipline up to and including termination. A return-to-duty test that indicates a BAC of 0.02% by weight or above will result in immediate termination.

7.42 For the second occasion in which an employee records a BAC between 0.02% and 0.039% by weight the employee will be suspended without pay for 15 work days (ii) referred to the City's Employee Assistance Program (EAP) for counseling; (iii) required to successfully complete the rehabilitation program outlined by the EAP counselor (iv) subject to additional discipline up to and including termination. The employee will be required to take another alcohol test before returning to duty; a positive return-to-duty test will result in immediate termination. The employee will also be subject to additional alcohol testing without additional reasonable suspicion for up to 60 months following his or her return to work. Upon the SAP counselor's recommendation, the employee may be allowed to return to work prior to completion of the rehabilitation program, but failure to complete the program will result in termination.

7.43 For the third occasion in which an employee records a BAC between 0.02% and 0.039% by weight, the employee will be terminated and referred to a Substance Abuse Professional.

7.44 Records of positive alcohol tests below the 0.04% by weight BAC level will be purged from the employee's file after five (5) years if no subsequent violations of any portion of this policy have

occurred during that period.

7.45 Any confirmed tests results (first occasion) in which an employee records a BAC of 0.04% or greater by weight, the employee will be terminated and referred to a Substance Abuse Professional.

7.5 All disciplinary action for police and fire employees will be administered in accordance with Police Merit Board Rules and Procedures and with Indiana Code 36-8-3-4 (when said rules, procedures and code provisions are applicable to the employee and situation).

7.6 Police Department employees assigned to undercover duties may receive Special consideration under this policy. Upon notification of a confirmed positive alcohol test, the Chief of Police and the Drug and Alcohol Testing Administrator will jointly determine whether such consideration is warranted. At their sole discretion the positive test result may be treated as a negative result for disciplinary purposes. A written statement outlining the reasons for such a decision shall be attached to the report of the positive test result

8.0 MAINTAINING CONTACT WITH THE CITY AND MRO AFTER A DRUG TEST

8.1 Employees who are tested for drugs are required to remain in contact with the City's Drug and Alcohol Testing Administrator (DATA) and Medical Review Officer (MRO) while awaiting the results of their tests. Employees are required to advise the City of their whereabouts and a telephone number where they can be reached during this time.

8.2 The Director of Public Works and Safety is the City's Drug and Alcohol Testing Administrator (DATA).

8.3 Midwest Toxicology, 321 East New York St., Suite 300, Indianapolis, Indiana, shall provide the services of the City's Medical Review Officer (MRO)

8.4 An employee who refuses or fails to remain in contact with the DATA or MRO may waive his or her right, under Section 6.11 of this policy, to speak with the City's MRO, before a test is confirmed positive and will be subject to disciplinary action up to and including termination.

9.0 DRUG AND ALCOHOL INFORMATION

9.1 The City will provide educational materials and training for all employees explaining the City's drug and alcohol testing policies and procedures. Drivers will also be given an explanation of DOT requirements. In addition, the City will provide all employees with information concerning: (i) the effects of drugs and alcohol on an individual's health, work, and personal life, (ii) the signs and symptoms of a drug or alcohol problem, (iii) available methods of intervention when a problem does exist.

9.2 Each employee is required to certify that he or she has been given a copy of this policy, as amended from time to time; and other drug and alcohol information as outlined above. Employees who refuse to execute the required certification will be subject to discipline up to and including termination. Applicants are required to execute the certification as a condition of being considered for employment.

9.3 Any employee who engages in any conduct prohibited under this policy will be provided with information concerning the resources available to evaluate and resolve a drug or alcohol, problem, and the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs.

10.0 PAYMENT OF COSTS

10.1 The City will pay the costs for all initial and confirmatory drug and alcohol tests required by this policy.

10.2 Employees are responsible for the costs of analyzing any secondary urine specimens requested under section 6.12 of this policy. The City will reimburse the cost of the analysis of a secondary urine specimen only if the test results are negative.

10.3 The City will pay the cost for all drug and alcohol counseling conducted under the City's EAP Costs for counseling that continues after EAP benefits run out will be the responsibility of the employee

10.4 Employees who are terminated under the provisions of this policy will be responsible for the cost of any and all counseling that occurs after the termination date.

11.0 CONFIDENTIALITY

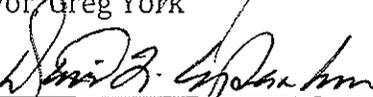
11.1 The results of all individual drug and alcohol tests will be considered confidential and kept in a secured location with controlled access.

11.2 The release of an individual employee's results will be made only in accordance with the employee's written authorization or as otherwise required by applicable laws.

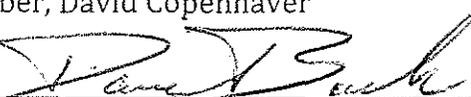
**Board of Public Works and Safety
Adoption of City Employee Handbook
2013 Version**



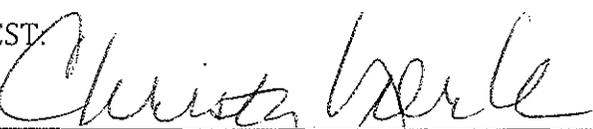
Mayor, Greg York



Member, David Copenhaver



Member, David Barker

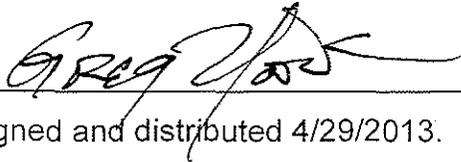
ATTEST:


Clerk Treasurer, Christy York

Adoption Date: 4/15/2013

ADENDEM #1: Anti-Nepotism Policy

Per City Resolution #06182012 adopted by the City Council June 18, 2012 establishes a policy set for per IC Code 36-1-20.2 for employees and IC Code 36-1-21 for Contracting.



A handwritten signature in black ink, appearing to read "Greg Jones", is written over a horizontal line.

Signed and distributed 4/29/2013.

IC 36-1-20.2

Chapter 20.2. Nepotism

IC 36-1-20.2-1

Applicability

Sec. 1. This chapter applies to all units.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-2

Individuals employed on July 1, 2012

Sec. 2. An individual who is employed by a unit on July 1, 2012, is not subject to this chapter unless the individual has a break in employment with the unit. The following are not considered a break in employment with the unit:

(1) The individual is absent from the workplace while on paid or unpaid leave, including vacation, sick, or family medical leave, or worker's compensation.

(2) The individual's employment with the unit is terminated followed by immediate reemployment by the unit, without loss of payroll time.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-3

Precinct election officers and volunteer firefighters not subject to chapter

Sec. 3. For purposes of this chapter, the performance of the duties of:

(1) a precinct election officer (as defined in IC 3-5-2-40.1) that are imposed by IC 3; or

(2) a volunteer firefighter;

is not considered employment by a unit.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-4

"Direct line of supervision"

Sec. 4. As used in this chapter, "direct line of supervision" means an elected officer or employee who is in a position to affect the terms and conditions of another individual's employment, including making decisions about work assignments, compensation, grievances, advancement, or performance evaluation. The term does not include the responsibilities of the executive, legislative body, or fiscal body of a unit, as provided by law, to make decisions regarding salary ordinances, budgets, or personnel policies of the unit.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-5

"Employed"

Sec. 5. As used in this chapter, "employed" means an individual who is employed by a unit on a full-time, part-time, temporary, intermittent, or hourly basis. The term does not include an individual

who holds only an elected office. The term includes an individual who is a party to an employment contract with the unit.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-6

"Member of the fire department"

Sec. 6. As used in this chapter, "member of the fire department" means the fire chief or a firefighter appointed to the department.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-7

"Member of the police department"

Sec. 7. As used in this chapter, "member of the police department" means the police chief or a police officer appointed to the department.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-8

"Relative"

Sec. 8. (a) As used in this chapter, "relative" means any of the following:

- (1) A spouse.
- (2) A parent or stepparent.
- (3) A child or stepchild.
- (4) A brother, sister, stepbrother, or stepsister.
- (5) A niece or nephew.
- (6) An aunt or uncle.
- (7) A daughter-in-law or son-in-law.

(b) For purposes of this section, an adopted child of an individual is treated as a natural child of the individual.

(c) For purposes of this section, the terms "brother" and "sister" include a brother or sister by the half blood.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-9

Adoption of more stringent or detailed requirements

Sec. 9. (a) This chapter establishes minimum requirements regarding employment of relatives. The legislative body of the unit shall adopt a policy that includes, at a minimum, the requirements set forth in this chapter. However, the policy may:

- (1) include requirements that are more stringent or detailed than any provision in this chapter; and
- (2) apply to individuals who are exempted or excluded from the application of this chapter.

The unit may prohibit the employment of a relative that is not otherwise prohibited by this chapter.

(b) The annual report filed by a unit with the state board of accounts under IC 5-11-13-1 must include a statement by the executive of the unit stating whether the unit has implemented a policy under this chapter.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-10

Employment of relatives in direct line of supervision prohibited

Sec. 10. Individuals who are relatives may not be employed by a unit in a position that results in one (1) relative being in the direct line of supervision of the other relative.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-11

Employee not in violation if relative assumes elected office; promotions

Sec. 11. (a) This section applies to an individual who:

- (1) is employed by a unit on the date the individual's relative begins serving a term of an elected office of the unit; and
- (2) is not exempt from the application of this chapter under section 2 of this chapter.

(b) Unless a policy adopted under section 9 of this chapter provides otherwise, an individual may remain employed by a unit and maintain the individual's position or rank even if the individual's employment would violate section 10 of this chapter.

(c) Unless a policy adopted under section 9 of this chapter provides otherwise, an individual described in subsection (b) may not:

- (1) be promoted to a position; or
- (2) be promoted to a position that is not within the merit ranks, in the case of an individual who is a member of a merit police department or merit fire department;

if the new position would violate section 10 of this chapter.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-12

Employment contract not abrogated

Sec. 12. This chapter does not abrogate or affect an employment contract with a unit that:

- (1) an individual is a party to; and
- (2) is in effect on the date the individual's relative begins serving a term of an elected office of the unit.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-13

Sheriff's employment of spouse as prison matron allowed

Sec. 13. Unless the policy adopted under section 9 of this chapter provides otherwise, a sheriff's spouse may be employed as prison matron for the county under IC 36-8-10-5 and the spouse may be in the sheriff's direct line of supervision.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-14

Employment of former coroner allowed

Sec. 14. Unless the policy adopted under section 9 of this chapter provides otherwise, an individual:

- (1) who served as coroner;
- (2) who is currently ineligible to serve as coroner under Article 6, Section 2(b) of the Constitution of the State of Indiana;
- (3) who, as coroner, received certification under IC 36-2-14-22.3; and
- (4) whose successor in the office of coroner is a relative of the individual;

may be hired in the position of deputy coroner and be in the coroner's direct line of supervision.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-15

Township trustee; hiring of relative to work in office located in residence permitted; salary limit

Sec. 15. If the township trustee's office is located in the township trustee's personal residence, unless the policy adopted under section 9 of this chapter provides otherwise the township trustee may hire only one (1) employee who is a relative. The employee:

- (1) may be hired to work only in the township trustee's office;
- (2) may be in the township trustee's direct line of supervision; and
- (3) may not receive total salary, benefits, and compensation that exceed five thousand dollars (\$5,000) per year.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-16

Annual certification by elected officer

Sec. 16. Each elected officer of the unit shall annually certify in writing, subject to the penalties for perjury, that the officer has not violated this chapter. An officer shall submit the certification to the executive of the unit not later than December 31 of each year.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-17

Noncompliance reported to the department of local government finance

Sec. 17. If the state board of accounts finds that a unit has not implemented a policy under this chapter, the state board of accounts shall forward the information to the department of local government finance.

As added by P.L.135-2012, SEC.7.

IC 36-1-20.2-18

Budget or additional appropriations may not be approved

Sec. 18. If a unit has not implemented a policy under this chapter, the department of local government finance may not approve:

- (1) the unit's budget; or
- (2) any additional appropriations for the unit;

for the ensuing calendar year until the state board of accounts certifies to the department of local government finance that the unit is in compliance with this chapter.
As added by P.L.135-2012, SEC.7.

CITY OF NEW CASTLE

Acknowledgement of Receipt of Personnel Handbook

I have received a copy of the City of New Castle's Personnel Handbook, and agree to read and keep the handbook for future reference and to direct any questions about the handbook or its contents to Administration or Mayor. I understand that as a term and condition of my employment I am to comply with and abide by the policies in the handbook. **I understand that this handbook is not a contract of employment and does not alter my at-will employment relationship with the City.** I further understand that the City reserves the right to modify, change, delete, or add to, as it deems appropriate, the policies, procedures, benefits, and other general information contained in this handbook.

Employee's Signature

Printed Name

Date