1. **General Information**

   a. The Federal Highway Administration (FHWA) requires the City of Dunedin to have in place an alcohol use and controlled substances testing program for its employees who operate commercial motor vehicles (CMV) and are required to possess a commercial driver's license (CDL). Consequently, the City has developed this policy.

   All City employees, including those possessing a CDL, will remain subject to the City of Dunedin's Substance Abuse Prevention Program (SAPP). However, employees who are required to possess a CDL and operate a CMV will also be subject to the provisions of this policy. Questions regarding this policy should be directed to the Risk/Safety Manager located in the Division of Human Resources and Risk/Safety.

   b. For the purposes of this policy, the following definitions will apply:

   (1) "Alcohol testing" refers to an evidential breath test (EBT). Alcohol content is expressed as the number of grams of alcohol per 210 liters of breath. Such alcohol testing will be conducted by a breath alcohol technician (BAT) who is trained to proficiently operate the EBT.

   (a) A City CDL driver must be removed from performing any safety-sensitive function at any alcohol concentration of 0.02 or greater.

   (b) If a City CDL driver has an alcohol concentration of 0.02 or greater, but less than 0.04, the driver will not be allowed to perform safety-sensitive functions again until the next scheduled duty period, if at least 24 hours have elapsed, or until a retest shows an alcohol concentration of less than 0.02.

   *Note: The FHWA has established 0.02 as the standard because it represents the lowest level at which a scientifically accurate alcohol concentration can be measured. This basically establishes a zero tolerance standard for alcohol.*
(c) If a City CDL driver has an alcohol concentration of 0.04 or greater, the driver will not perform a safety-sensitive function until:

   i) the driver has been evaluated by an EAP professional;
   ii) the driver has received treatment, if required, by an EAP professional; and
   iii) the driver has been retested with a result below 0.02.

(2) "Commercial motor vehicle" or CMV refers to a motor vehicle or combination of motor vehicles used to transport passengers or property, if the motor vehicle:

   (a) has a gross vehicle weight rating (GVWR) of 26,001 or more pounds;
   (b) has a gross combined weight rating (GCWR) of 26,001 or more pounds, inclusive of a tow unit with a gross vehicle rating of more than 10,000 pounds;
   (c) is designated to transport 16 or more passengers, including the driver; or
   (d) transports hazardous materials requiring the vehicle to be placarded.

See attachment C for the City of Dunedin CMV listing.

(3) "Controlled substance (drug) testing" refers to a "split-sample" urine specimen test for the following drugs:

   (a) amphetamines;
   (b) cannabinoids (marijuana or THC);
   (c) cocaine;
   (d) opiates; and
   (e) phencyclidine (PCP).

(4) "Medical Review Officer (MRO)". This refers to a licensed physician selected by the City as responsible for receiving laboratory results generated by the City’s CDL driver drug and alcohol testing policy, who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate confirmed positive test results. All medical review officers must be certified by the American Association of Medical Review Officers, or by the American College of Occupational and Environmental Medicine.
(5) "Safety-sensitive functions" essentially means any on-duty functions:

(a) all time spent by a driver at a carrier or shipping plant, terminal, facility, or other property, or any public property, while waiting to be dispatched;
(b) all time spent inspecting, servicing, or conditioning any commercial motor vehicle;
(c) all driving time;
(d) all time other than driving time spent in a commercial motor vehicle except time spent resting in a sleeper berth;
(e) all time spent loading or unloading a commercial motor vehicle, or supervising, assisting, or attending such a task, or remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;
(f) time spent by the driver in performing the requirements of 49 C.F.R. §§ 392.40-392.41 as they relate to accidents (see, attached pages; these regulations prescribe driver duties such as "render all reasonable assistance to injured persons"); and
(g) all time spent by the driver repairing, obtaining assistance for, or remaining in attendance upon a disabled vehicle.

49 C.F.R. § 382.107. The trigger event prompting testing in many situations under the regulations is the performance or prospective performance of safety-sensitive functions by a driver. "Performing" a safety-sensitive function means more than the actual performance of that function. "Performance" also includes time when the employee is ready to perform or is immediately available to perform a safety-sensitive function. Id.

(6) "Verified Positive Drug Test". This refers to a determination made by Medical Review Officer (MRO) that there is evidence of prohibited drugs in a CDL driver's urine sample. The standards for determining evidence of prohibited drugs shall be those established at 49 C.F.R. § 40.29 (1994).

CDL Driver Categories (Attachment A)

The categories of drivers who are subject to FHWA regulations and thus this policy are listed in Attachment A of this policy.

(Revised CDL Policy - July 1, 1998)
2. **Requirement to Submit to Testing Upon Request**

City of Dunedin CDL drivers must submit to alcohol and controlled substance tests administered in accordance with the FHWA rule.

3. **Required Testing**

a. **Pre-Employment Testing**

(1) Prior to actually being permitted to perform City CDL driving, for the first time, applicants who have been offered City employment must successfully complete testing for controlled substances as a condition of their employment. If applicant does not possess a CDL license but is allowed to obtain the license, the applicant will be tested under the City’s SAPP policy as a condition of their employment. If the employee does not receive the required license in the time frame specified by the City, the employee may be subject to termination. Once the CDL license is obtained, the employee will be subject to the requirements of this policy.

(2) The City does not have to administer a pre-employment controlled substance test if (a) the driver has successfully participated in a required drug testing program within the previous thirty (30) days; and (b) has been tested for controlled substances within the past six (6) months or has participated in a random testing program within the past twelve (12) months. In order to grant this waiver, the City must obtain from the CDL driver’s past or present employer verified documentation reflecting successful participation. The past or present employer is required by the FHWA regulations to furnish the prospective employer with such drug testing information, verifying that no employer of the driver has records of a violation of any Department of Transportation controlled substance rule in the previous six (6) months. If the employee has participated in an alcohol or controlled substance testing program, the employer must verify participation and results in a conforming program.

(3) In addition, with a driver’s written consent, the City shall obtain information concerning the driver’s alcohol tests with a concentration result of 0.04 or greater, positive controlled substances test results, and refusals, to be tested within the preceding two (2) years, which are maintained by the driver’s previous employers pursuant to 49 C.F.R. §382. This information must be secure no later than fourteen (14) calendar days after the first time the driver performed a safety-sensitive function, if it is not feasible for the City to obtain the information prior to the

(Revised CDL Policy - July 1, 1998)
driver performing safety-sensitive functions. The City may not permit the driver to perform safety-sensitive functions after fourteen (14) days without obtaining the information. If the information is not received in this time frame, the employee will be placed on leave without pay pending the receipt and processing of the information.

(4) The City cannot continue to employ a driver if the City obtains information that in the past 2 years the driver had alcohol test results with concentrations of 0.04 or greater, verified positive controlled substance test results, or refused to be tested, without obtaining information on the subsequent substance abuse professional evaluation and/or determination required as provided in page 8, e(1) below and compliance with Return To Duty Testing.

(5) If a driver stops performing a safety-sensitive function for the City before the expiration of the fourteen (14) day period or before the City has obtained the information, the City must still obtain the information.

(6) The City will maintain written, confidential records with respect to each past employer contacted.

b. Random Testing

(1) City CDL drivers are subject to random alcohol and controlled substance testing as a condition of employment. Selection for random testing will be made by a scientifically valid method, such as computer-generated random number table. CDL drivers will have an equal chance of being tested each time selections are made. The City will ensure that random drug and alcohol tests are unannounced and test dates are spread reasonably throughout the year.

(2) Initially, the City will select a sufficient number of CDL drivers, each calendar year, as follows:

(a) For random alcohol tests, the minimum yearly standard established by the FHWA for the average number of CDL positions will be tested; and

(b) For random controlled substance tests, a minimum of 50% of the average number of CDL driver positions will be tested.

(Revised CDL Policy - July 1, 1998)
(3) A CDL driver who is notified of selection for a random test will immediately proceed to a designated test site. CDL drivers actually driving a CMV at the time they are notified will be relieved of such duty in order to take the test as soon as possible.

(4) A CDL driver will only be tested for alcohol just before, while performing, or just after performing a safety-sensitive function. Random controlled substance tests may be performed any time a CDL driver is performing City duties.

c. Reasonable Suspicion Testing

(1) Under this policy, only one supervisor is required to make a "reasonable suspicion" determination. Such determination must be based upon the supervisor’s reasonable finding that specific, contemporaneous articulable observations concerning the appearance, behavior, speech and/or body odors of a CDL driver indicate the presence of alcohol in his/her system. In suspected cases of the presence of a controlled substance, the supervisor’s observations must be based upon the driver’s appearance, behavior, speech and/or indications of the chronic or withdrawal effects of controlled substances.

(2) Reasonable suspicion alcohol testing is to be conducted within two (2) hours following the determination. The failure to test must be noted with an explanation for the delay. An alcohol test must be administered not later than eight (8) hours following the reasonable suspicion determination with the record requirement if this provision is not met. If the test is not administered at all, the employee may not perform a safety-sensitive function until either (a) an alcohol test is administered with a result of alcohol concentration of less than 0.02; or (b) 24 hours has lapsed following the reasonable suspicion determination.

(3) In the event a reasonable suspicion determination of alcohol and/or drugs is made by a supervisor, the CDL driver must submit to an alcohol and/or controlled substances test. However, the supervisor making such a determination will not conduct the alcohol or drug test on the CDL driver. Documentation of the basis for the reasonable suspicion to require an alcohol or drug test must be completed and signed by the supervisor within 24 hours of the reasonable suspicion determination or before the test results are released, whichever is earlier.
(4) The City will ensure that each CDL driver’s supervisor, or other person designated to make a reasonable suspicion determination, receives at least 60 minutes of training on alcohol misuse and 60 minutes of training on controlled substances use. The training must cover the physical, behavioral, speech, and performance indicators of alcohol misuse and drug abuse.

d. Post-Accident Testing

(1) As soon as practicable following an accident involving a CMV, the City of Dunedin will test for alcohol and controlled substances for each CDL driver:

(a) who was performing a safety-sensitive function with respect to the vehicle, if the accident results in loss of human life. Further, all drivers who performed safety-sensitive functions with respect to the vehicle involved must also be tested for alcohol and controlled substances as soon as practical; or

(b) who received a citation for a moving traffic violation arising from the accident.

Post-accident testing may also be done under the City of Dunedin’s SAPP program. See attachment B for the substance abuse prevention testing guidelines.

(2) A post-accident alcohol test should be administered within two (2) hours following the accident, and a controlled substances test should be administered within 32 hours. Otherwise, a report shall be prepared and maintained on file for the FHWA which describes why the tests were not promptly administered. If alcohol testing has not been done within eight (8) hours following the accident and controlled substance testing within thirty-two (32) hours, the employer must cease all efforts to test and document why tests were not promptly administered.

(3) In lieu of administering a post-accident test itself, the City may substitute a breath or blood test for use of alcohol and a urine test for use of drugs which is administered by on-site law enforcement personnel under their separate authority.

(4) No CDL driver required to take a post-accident test shall use alcohol for eight (8) hours following the accident or until the driver undergoes a post-accident alcohol test, whichever occurs first.
(5) Any CDL driver subject to post-accident testing who leaves the scene of an accident before a test is administered, drinks alcohol within eight (8) hours following the accident without first being tested, or fails to remain available for testing shall be deemed by the City to have refused to submit to testing. Such refusal shall be treated as if the CDL driver had received a verified positive for controlled substances or has an alcohol test result of 0.04 or greater.

(6) While the employee should be tested within the required time frames, the City is not required to delay necessary medical attention or prohibit the driver from leaving the scene of the accident so that assistance might be obtained. Otherwise, however, the driver must remain available so that testing can take place. Post-accident procedures and instructions are located in the glove compartment of every City vehicle to which this policy applies.

e. Follow-Up Testing

(1) If a CDL driver who tests positive for drugs or alcohol is permitted to continue City employment, he/she will be evaluated by an EAP professional who will determine the professional assistance needed to resolve the driver’s misuse of alcohol and/or drugs. If it is determined that professional assistance is needed, the driver will be subject to unannounced follow-up alcohol and/or drug abuse testing.

(2) A “recovering” CDL driver receiving assistance shall be subject to a minimum of six (6) unannounced follow-up alcohol and/or controlled substances tests within the first twelve (12) months following the CDL driver’s return to duty. The EAP professional may direct additional tests during this period and may direct testing be continued up to a total of 60 months.

(3) Notwithstanding any of the above, the City may subject any CDL driver who tests positive under the City’s SAPP program to unannounced testing, in accordance with that policy, in addition to any testing provided for by this policy.

(4) Before a driver returns to duty requiring a safety-sensitive function, the employee will not be permitted to work unless a re-test demonstrates: (a) an alcohol re-test shows a level of less than 0.02; and/or (b) a controlled substance test is negative. The employee will be retested for alcohol and/or controlled substances, depending upon which test(s) was initially positive.
4. **City CDL Driver Prohibitions**

   **a. Alcohol Concentrations**

   (1) It is a violation of this policy for any City CDL driver to report for duty or remain on duty requiring the performance of safety-sensitive functions with an alcohol concentration of 0.04 or greater.

   (2) It is a violation of this policy for a supervisor or manager, with actual knowledge that a driver has an alcohol concentration of 0.04 or greater, to permit the CDL driver to perform or continue to perform safety-sensitive functions.

   (3) CDL drivers having an alcohol concentration of 0.02 or greater, but less than 0.04, shall be immediately relieved of safety-sensitive functions and not permitted to perform such functions until at least 24 hours later or until a retest shows an alcohol concentration of less than 0.02.

   **b. Alcohol Possession**

   (1) No CDL driver shall be on duty or operate a CMV while the driver is in possession of alcoholic beverages.

   (2) No supervisor or manager, having actual knowledge that a CDL driver is in possession of alcoholic beverages, may permit a CDL driver to drive or continue to drive a CMV.

   **c. On-Duty Alcohol Use**

   (1) No CDL driver shall use alcohol while performing safety-sensitive functions.

   (2) No supervisor or manager, having actual knowledge that a CDL driver is using alcohol while performing safety-sensitive functions, shall permit the CDL driver to perform or continue to perform safety-sensitive functions.

   **d. Pre-Duty Use**

   (1) No CDL driver shall perform safety-sensitive functions within four (4) hours after using alcohol.
(2) No supervisor or manager, having actual knowledge that a CDL driver has used alcohol within four (4) hours, shall permit such driver to perform or continue to perform safety-sensitive functions.

e. Alcohol Use Following an Accident

No CDL driver, required to take a post-accident alcohol test, shall use alcohol for eight (8) hours following the accident, or until he or she undergoes a post-accident alcohol test, whichever occurs first.

f. Use of Controlled Substances

(1) No CDL driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the CDL driver uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the CDL driver that the prescribed substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle (CMV). For the purposes of this section, a CDL driver who has a verified positive drug test shall be deemed to have reported for or remained on duty following the use of a controlled substance.

(2) No supervisor or manager, having actual knowledge that a CDL driver has used a controlled substance, shall permit the CDL driver to perform or continue to perform a safety-sensitive function.

(3) A CDL driver shall inform a supervisor or the Risk/Safety Manager of any therapeutic drug use which results in the employee not being able to perform the essential functions of his/her job or which creates a direct threat to the safety or welfare of himself/herself or others in the workplace.

g. Controlled Substances Testing

(1) No CDL driver shall report for duty, remain on duty, or perform a safety-sensitive function if the CDL driver tests positive for controlled substances.

(2) No supervisor or manager, having actual knowledge that a CDL driver has tested positive for controlled substances, shall permit the driver to perform or continue to perform safety-sensitive functions.
h. Refusal to Submit to a Required Alcohol or Controlled Substances Test

(1) Refusal to submit (to an alcohol or controlled substances test) means that a driver:

(a) fails to provide adequate breath for testing without a valid medical explanation after he/she has received notice of the requirement;
(b) fails to provide adequate urine for controlled substances testing without a valid medical explanation after he/she has received notice of the requirement; or
(c) engages in conduct that clearly obstructs the testing process.

(2) No CDL driver may refuse to submit to:

(a) a post-accident alcohol or controlled substances test;
(b) a random alcohol or controlled substances test;
(c) a reasonable suspicion alcohol or controlled substances test; or
(d) a follow-up alcohol or controlled substances test.

(3) No supervisor or manager shall permit a CDL driver who refuses to submit to such required alcohol and/or controlled substances tests to perform or continue to perform safety-sensitive functions.

(4) For purposes of this policy, once a CDL driver becomes aware of the requirement that he or she must submit to an alcohol or controlled substances test under the provisions of this policy and the CDL driver is not subsequently tested, unless otherwise excused by the Appointing Authority such failure to be tested shall be deemed a refusal to submit to a required alcohol or controlled substances test.

(5) Once a CDL driver refuses to submit to drug testing, he will not be permitted to perform safety-sensitive functions and his/her employment with the City of Dunedin will be terminated immediately.

5. Required Reporting of Results

a. The City shall prepare and maintain an annual calendar year summary of the results of its CDL testing program.

(Revised CDL Policy - July 1, 1998)
b. If the City is notified by the FHWA during January of a given year to submit its results, it shall do so prior to March 15th of that year.

c. The City's summary of results will be in the format prescribed by the FHWA pursuant to Federal Regulations.

6. Confidentiality

Except as authorized by law or expressly authorized or required by federal regulations, all driver information obtained by reason of this policy shall remain confidential.

A driver is entitled, upon written request, to obtain copies of any records pertaining to the driver's use of alcohol or controlled substances, including any records pertaining to his or her alcohol or controlled substances tests. The City shall promptly provide the records requested by the driver.

7. Disciplinary Actions for Policy Violations

Employees found in violation of this policy are subject to discipline, up to and including discharge. Any employee found in violation of this policy must be seen and evaluated by an EAP professional, prior to being returned to perform safety-sensitive functions for the City. Additionally, any CDL driver found in violation of this policy shall agree, as a term and condition of their continued employment, to complete a drug and/or alcohol treatment program prescribed by their EAP counselor and return to work testing with a concentration of less than 0.02 and with a verified negative test result for controlled substances. A safety-sensitive employee who is participating in an employee assistance program or drug rehabilitation program may not be allowed to continue to work in any safety-sensitive position but may be assigned to a position other than a safety-sensitive position, if such position is available, or placed on unpaid leave while the employee is participating in the program. However, the employee shall be permitted to use any appropriate accrued leave before leave may be ordered without pay. If an employee holds a safety-sensitive position and tests verified positive while in rehabilitation or the EAP, or is a second time offender, the employee shall be terminated immediately.

A civil penalty may also be assessed by the Secretary of Transportation against the employee if the employee's actions were grossly negligent or showed a reckless disregard for safety.
8. Promulgation of Policy on Misuse of Alcohol and Use of Controlled Substances

a. General Requirements

(1) The City will provide educational materials explaining the requirements of the FHWA and this policy.

(2) A copy of the above-described educational materials will be provided to each City driver before the start of required testing and to each CDL driver subsequently hired or transferred into a position requiring the driving of a CMV.

b. Required Content of Educational Materials

Educational materials made available to City CDL drivers will include a detailed discussion of at least the following:

(1) The identity of the person designated by the City to answer CDL driver’s questions about the materials.

(2) The categories of drivers who are subject to the FHWA rule.

(3) Sufficient information about the safety-sensitive functions performed by City drivers to make clear the periods of the workday the driver will be required to be in compliance with the FHWA rule.

(4) Specific information describing conduct which is prohibited by the FHWA rule.

(5) Circumstances under which City CDL drivers will be tested for alcohol and/or controlled substances under the FHWA rule.

(6) Post-accident procedures and instructions prior to initial operation of a commercial motor vehicle.

(7) The procedures that will be used to:

(a) test for the presence of alcohol or controlled substances;
(b) protect the driver and integrity of the testing processes;
(c) safeguard the validity of the test results; and
(d) ensure those results are attributed to the correct driver.

(8) The requirement that a City driver submit to alcohol and controlled substances tests administered in accordance with the FHWA rule.
(9) An explanation of what constitutes a refusal to submit to an alcohol or controlled substances test and the attendant consequences.

(10) The consequences for City CDL drivers found to have violated the FHWA prohibitions, including immediate removal from safety-sensitive functions, required referral, evaluation, and treatment procedures, and any disciplinary action that may be taken.

(11) The consequences for drivers found to have an alcohol concentration of 0.02 or greater, but less than 0.04.

(12) Information concerning:

(a) The effects of alcohol and controlled substances use on an individual's health, work, and personal life;
(b) Signs and symptoms of an alcohol or a controlled substances problem (the driver's or co-worker's); and
(c) Available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to an EAP program, and referral to management.

Effective Date of Policy  
August 1, 1995

Policy Revised  
July 1, 1998

Director of Human Resources & Risk/Safety  
[Signature]  
6/25/98  
Date

Director of Administration  
[Signature]  
6/25/98  
Date

City Manager  
[Signature]  
6/24/98  
Date

(Revised CDL Policy - July 1, 1998)
City of Dunedin’s Controlled Substances
and Alcohol Use Testing Policy for
City Commercial Motor Vehicle Drivers

ATTACHMENT A

CDL Driver Categories

**Parks Division**
Resource Coordinator
Park Maintenance Supervisor
Park Operator
Parks Service Worker III
Parks Service Worker II
Parks Service Worker I

**Solid Waste**
Division Director
Foreman III, II
Equipment Operator III
Equipment Operator II
Solid Waste Driver/Loader

**Vehicle Maintenance**
Vehicle Mechanic III
Vehicle Mechanic II

**Streets**
Equipment Operator IV
Equipment Operator III
Equipment Operator II
Equipment Operator I
Crew Leader
Craftsworker I, II
Maintenance Worker II
Maintenance Worker I

**Water**
Water Distribution Foreman
Water Service Worker II
Water Service Worker I
Water Plant Operator I/Wellfield Tech
Water Distribution Tech III
Water Distribution Tech II
Water Distribution Tech I
Water Maintenance Mechanic

**Reclaimed Water**
Water Distribution Tech II
Water Service Worker II

**Stormwater**
Equipment Operator IV
Equipment Operator III
Equipment Operator II
Equipment Operator I
Maintenance Worker II

**Wastewater**
Wastewater Collection System Foreman
Foreman II (Repair Crew)
TV/Seal Truck Operator
Lift Station Maintenance Mechanic
Wastewater Technician I
Wastewater Service Worker II
*Wastewater Service Worker I
* (Collection System Only)

*Revised CDL Policy - July 1, 1996*
Any questions regarding the criteria for testing should be directed to the Risk/Safety Manager located in the Division of Human Resources & Risk/Safety.

July 1, 1998
### ATTACHMENT C

#### Commercial Motor Vehicle Listing

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<th>VEHICLE #</th>
<th>VEHICLE DESCRIPTION</th>
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<td>1001</td>
<td>Wrecker Tow Truck</td>
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<td>Wastewater</td>
<td>505</td>
<td>Sewer Cleaner Truck</td>
</tr>
</tbody>
</table>

(Revised CDL Policy - July 1, 1998)