

1st reading (2)
10-19-13

Sponsored by:

Seconded by:

[Handwritten signatures]

CITY OF HOBOKEN
ORDINANCE NO. Z-259 ~~Z-259~~

AN ORDINANCE TO AMEND CHAPTER 179A ENTITLED "TAXICABS" TO CLARIFY A RECENT AMENDMENT TO THE FARES

WHEREAS, the City determined that the allowable fares of § 179A-20 are outdated and need to be amended to take into account current taxi user activity and current costs of living, which was previously adopted by this Council, but the Council is now called upon to clarify the amendments by way of an additional amendment to the fare sections.

NOW, THEREFORE, the City Council of the City of Hoboken does hereby ordain as follows (additions noted in underline, ~~deletions noted in strikethrough~~):

§ 179A-20 Taxicab fares.

The maximum rates of fare allowable for taxicabs licensed by the City of Hoboken shall be as follows:

A. Maximum Allowable Intra-City Fares

The maximum allowable fare for Intra-City taxi service shall be Six Dollars (\$6.00), except for taxi service initiating from the taxi stand at the New Jersey Transit/PATH station which shall have a maximum Intra-City fare of Five Dollars (\$5.00).

B. Additional Allowable Fees

1. If cab rides are shared with the consent of the first rider(s), the fee may be increased by \$5.00 so long as the second rider(s) is not going to the same exact destination. No more than two paying passengers per shared ride. The right of the taxicab operator to transport shared rides applies only at taxi stands designated by the City of Hoboken if there are more passengers than available taxis. The first rider must be taken to his or her destination first.
2. If a taxi picks up a party of more than one person at the taxi stand at the New Jersey Transit/PATH station for Intra-City travel, the taxi driver may charge an additional One Dollar (\$1.00) fee for each additional person, which fee shall be in addition to the allowable fare of Five Dollars (\$5.00), except that there shall be no additional charge for children under the age of Thirteen (13) years old.

C. Allowable Baggage Fees

In addition to the aforesaid rates, there shall be a charge of \$0.50 for each bag exceeding two, with which a driver assists a passenger, except that senior citizens shall not be subject to this fee.

D. Maximum Allowable Non-Intra-City Fares

Every driver must have a City approved Rate Book in the vehicle at all times and must use the rates included in the book.

No other amendments are made to § 179A as part of this Ordinance

SECTION TWO: REPEAL OF INCONSISTENT PROVISIONS

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

SECTION THREE: SEVERABILITY

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION FOUR: EFFECTIVE DATE

This Ordinance shall take effect immediately upon passage and publication as provided by law.

SECTION FIVE: CODIFICATION

This ordinance shall be a part of the Code of the City of Hoboken as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Code.

The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Hoboken in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

Date of Introduction: October 17, 2013

Introduction:

Councilperson	Yea	Nay	Abstain	No Vote
Ravi Bhalla	✓			
Theresa Castellano		✓		
Jen Giattino	✓			
Elizabeth Mason		✓		
David Mello	✓			
Tim Occhipinti	✓			
Michael Russo	✓			
President Peter Cunningham	✓			

Final Reading:

Councilperson	Yea	Nay	Abstain	No Vote
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Ravi Bhalla				
Theresa Castellano				
Jen Giattino				
Elizabeth Mason				
David Mello				
Tim Occhipinti				
Michael Russo				
President Peter Cunningham				

Approved as to Legal Form:

Mellissa Longo, Interim Corporation Counsel

Adopted by the Hoboken City Council
By a Vote of ____ Yeas to ____ Nays
On the ____ day of _____, 2013

James Farina, City Clerk

Vetoed by the Mayor for the following reasons: _____

-or-

Approved by the Mayor
On the ____ day of _____, 2013

Dawn Zimmer, Mayor

1st reading

①

11-18-13

Sponsored by:

Seconded by:

CITY OF HOBOKEN
ORDINANCE NO.: Z-268

Z-168

**AN ORDINANCE TO AMEND CHAPTER 6 TITLED
“ADMINISTRATIVE AFFAIRS” TO ADD ARTICLE XV
TITLED “PERSONNEL POLICIES”**

WHEREAS, Chapter 6 of the Administrative Code of the City of Hoboken titled “Administrative Affairs” addresses various issues, including those pertaining to City employees, such as longevity pay, harassment policy and deferred compensation; and

WHEREAS, the Administration wishes to enact a new drug and alcohol policy for current and potential City of Hoboken employees working in safety-sensitive positions;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hoboken that Chapter 6 of the Administrative Code of the City of Hoboken shall be amended as follows (additions noted in underline; ~~deletions~~ noted in ~~strike through~~):

SECTION ONE: AMENDMENTS

Article XV Personnel Policies

Section 6-60. Drug and Alcohol Policy for Safety-Sensitive Employees in Transit

The City hereby adopts and enacts the Drug and Alcohol Policy for Safety-Sensitive Employees in Transit, which shall be effective as of the date this ordinance becomes law.

SECTION TWO: REPEAL OF INCONSISTENT PROVISIONS

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the legislative intent that all ordinances or part of ordinances now existing or in effect unless the same being conflict or are inconsistent with any provision of this Ordinance shall remain in effect.

SECTION THREE: SEVERABILITY

The provisions of this Ordinance are declared to be severable, and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not effect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any

part.

SECTION FOUR: EFFECTIVE DATE

This Ordinance shall take effect upon passage and publication as provided by law.

SECTION FIVE: CODIFICATION

This Ordinance shall be a part of the Administrative Code of the City of Hoboken as though codified and fully set forth therein. The City Clerk shall have this Ordinance codified and incorporated in the official copies of the Administrative Code.

The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Administrative Code of the City of Hoboken in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Administrative Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

Date of Introduction: November 18, 2013

Introduction:

Councilperson	Yea	Nay	Abstain	No Vote
Ravi Bhalla	/			
Theresa Castellano	/			
Jen Giattino	/			
Elizabeth Mason	/			
David Mello	/			
Tim Occhipinti	/			
Michael Russo	/			
President Peter Cunningham	/			

Final Reading:

Councilperson	Yea	Nay	Abstain	No Vote
Ravi Bhalla				
Theresa Castellano				
Jen Giattino				
Elizabeth Mason				
David Mello				
Tim Occhipinti				
Michael Russo				
President Peter Cunningham				

Approved as to Legal Form:

Mellissa L. Longo, Corporation Counsel

Adopted by the Hoboken City Council
By a Vote of ____ Yeas to ____ Nays
On the ____ day of _____, 2013

James Farina, City Clerk

Vetoed by the Mayor for the following reasons: _____

-or-

Approved by the Mayor
On the ____ day of _____, 2013

Dawn Zimmer, Mayor

**CITY OF HOBOKEN
DRUG AND ALCOHOL POLICY FOR
SAFETY-SENSITIVE EMPLOYEES
IN TRANSIT**

EFFECTIVE DATE: November 2013

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POLICY STATEMENT

The City of Hoboken (the “City”), through its City Council (the “Council”), does hereby endorse the Omnibus Transportation Employee Testing Act of 1991 and the rules mandated by the U.S. Department of Transportation (the “DOT”), Federal Transit Administration (the “FTA”). City employees who perform safety-sensitive transportation functions or supervise personnel in safety-sensitive transportation functions shall be subject to policies and procedures in accordance with DOT, 49 C.F.R. Part 40 Procedures for Transportation Workplace Drug Testing Programs and 49 C.F.R. Part 655 Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations.

In an effort to comply with laws, rules and regulations promulgated by Federal agencies with the authority to do so, as well as to protect affected employees performing work in safety-sensitive positions, the City hereby adopts the regulations as set forth in this Drug and Alcohol Policy for Safety-Sensitive Employees in Transit (the “Policy”) effective as of the date the resolution regarding Policy is approved by the City Council, thereby establishing programs designed to help prevent accidents and injuries resulting from the misuse of alcohol or prohibited drugs used by safety-sensitive employees as defined in 49 C.F.R. Part 40 and Part 655. By adopting this Policy, the City expressly supersedes and overrides any other previous policies regarding safety-sensitive employees, including, but not limited to, the City’s Substance Abuse Policy for Safety Sensitive Employees effective March 1, 2002.

PURPOSE

By virtue of its daily operations and in pursuit of its quality objectives, the City recognizes the need to take steps necessary to provide a safe and efficient operating and working environment. Drug and alcohol use adversely impact the City’s goal of maintaining a safe and efficient operating and working environment and greatly threatens quality, as abuse adversely affects productivity and impairs judgment. Unimpaired judgment is critical, since decisions affect not only the City’s business, but also the safety of its employees, customers, members of the public and other third parties.

The City’s goal is to encourage employees to come forward with their drug and alcohol problems and seek rehabilitation through the City’s Employee Assistance Program (“EAP”).

Additionally, separate from any DOT and FTA requirements, under the independent authorization of the City, the City’s employees and agents are strictly prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, sale or use of any prohibited drug in the workplace or while conducting City business off the City’s premises. Likewise, abuse of legal substances, such as alcohol and prescription drugs, is also prohibited while at work.

Participation in the prohibited drug- and alcohol-testing program is a requirement of each safety-sensitive employee and, therefore, is a condition of employment.

The City will strictly adhere to all standards of confidentiality and assures all employees that testing records and results will be released only to those individuals who are authorized by FTA rules to receive such information.

All testing under the FTA requirements are conducted in accordance with 49 C.F.R. Part 40: Procedures For Transportation Workplace Drug and Alcohol Testing Programs.

***A copy of the DOT rules in 49 C.F.R. Part 40 is located the City's Personnel and Benefits Division.**

In adopting this policy, the City does not otherwise waive its right to enforce already-established rules, policies, programs or the terms and provision of any applicable collective bargaining agreement governing drug and alcohol use possession that are consistent with the Policy.

Accordingly, the City has developed the following Policy.

Administration Responsibilities

To address questions relevant to the anti-drug and alcohol misuse prevention program, safety-sensitive employees, supervisors and Directors of their respective City departments, shall contact program administrators as follows:

- A. The City's Third Party Administrator (the "TPA") on behalf of the City.
- B. The City's Designated Employer Representative (the "DER"), as defined herein.

The City's TPA and DER information are listed on Appendix A of this Policy.

Definition of Terms

The terms listed are consistent with the requirements of 40 C.F.R. Parts 40, 655 and have the following meaning:

Accident--an occurrence associated with the operation of a vehicle is as a result:

- 1) An individual dies; or
- 2) An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or
- 3) With respect to an occurrence in which the public transportation vehicle involved is a bus, electric bus, van or automobile, one or more vehicles (including

non-FTA funded vehicles) incurs disabling damage as the result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle; or

4) With respect to an occurrence in which the public transportation vehicle involved is a rail car, trolley car, trolley bus or vessel, the public transportation vehicle is removed from operation.

Adulterated Specimen--a specimen that contains a substance that is not expected to be present in human urine or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

Alcohol--the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl and isopropyl alcohol.

Alcohol Use--the consumption of any beverage, mixture, food or preparation, including any medication, containing alcohol.

Alcohol Concentration--expressed in terms of grams of alcohol per 210 liters of breath as measured by an Evidential Breath Testing Device ("EBT"), as defined herein.

Breath Alcohol Technician ("BAT")--an individual who instructs and assists individuals in the alcohol testing process and operates an EBT.

Cancelled Test--is a drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which this part otherwise requires to be cancelled. A cancelled test is neither positive nor negative.

Custody and Control Form--the procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is sent to the laboratory for testing and thereby destroyed after results have been determined.

Collection Site--a place where safety-sensitive employees present themselves to provide a urine specimen for a drug test.

Covered Employee--a person, including an applicant or transferee, who performs or will perform a safety-sensitive function for the City and is subject to this Policy.

Designated Employer Representative ("DER")--an in-house designated employee representative who coordinates the substance abuse process for the City. The DER must be familiar with all aspects of the City's substance abuse policy. The DER is trained regarding policy and in accordance with the provisions of 49 C.F.R. Part 655.14. The DER is authorized by the City to take immediate action(s) to remove employees from safety-sensitive duties or cause employees to be removed from these covered duties and to make required decisions in the testing and evaluation process.

Department of Health and Humans Services (“DHHS”)--the United States Department of Health and Human Services or any designee of the Secretary of the Department of Health and Human Services.

Department of Transportation--the department within the Federal government that administers regulations requiring drug and alcohol testing, which includes the FTA, the Federal Railroad Administration, the Federal Motor Carrier Safety Administration, the Federal Aviation Administration, the U.S. Coast Guard and the Pipeline and Hazardous Material Safety Administration.

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

Employee--an individual who performs a safety-sensitive function or holds a safety-sensitive position.

Evidential Breath Testing Device (“EBT”)--a device approved by the National Highway Traffic Safety Administration (“NHTSA”) for the evidential testing of breath at the 0.02 and 0.04 concentrations, and placed on the NHTSA’s “Conforming Products List” (“CPL”) of Evidential Breath Measurement.

FTA--Federal Transit Administration, an agency of the DOT that is responsible for the administration of transit-related programs and funds.

Medical Review Officer (“MRO”)--a licensed physician responsible for receiving, interpreting, evaluation and reporting drug-testing results.

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

Negative Test--a drug test with a result verified presence of the identified drug or its metabolite below the minimum levels specified in 49 C.F.R. Part 40, as amended. An alcohol test result with a concentration of less than 0.02 breath alcohol concentration (“BrAC”) is a negative test result.

Non-negative test result--a test result found to be adulterated, substitute, invalid or positive for drug/drug metabolites.

Positive Drug Test--a drug test result with a verified presence of the identified drug or its metabolite at or above the minimum levels specified in 49 C.F.R. Part 40, as amended. A positive alcohol test result means a confirmed alcohol concentration of 0.04 BrAC or greater.

Prohibited Substances--the consumption of the following drugs and drug metabolites at all times: marijuana, cocaine, opiates, amphetamines and phencyclidine (“PCP”) at levels

above the minimum thresholds. The consumption of any alcoholic substance, beverage or mixture, including any medication containing alcohol, within four (4) hours prior to performing a safety-sensitive duty, while on-call to perform a safety-sensitive duty, while performing a safety-sensitive duty or within eight (8) hours following an accident or until the employee undergoes a post-accident alcohol test, whichever occurs first, is prohibited. Alcohol testing for random and reasonable suspicion is only permitted just before an employee performs safety-sensitive duties, during that performance, and just after an employee has performed safety-sensitive duties.

Recipient--a person who receives Federal financial assistance under 49 U.S.C. § 5307, 5309, or 5311 directly from the Federal government.

Safety-Sensitive Function--means any of the following duties:

- 1) Operating a revenue service vehicle, including when not in revenue service;
- 2) Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver's License;
- 3) Controlling dispatch or movement of a revenue service vehicle;
- 4) Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service;
- 5) Carrying a firearm for security purposes;
- 6) Examples of employee titles include senior maintenance repair or senior maintenance repairers, coordinator, maintenance service; supervisor, maintenance repair, maintenance repair, maintenance worker, omnibus operator, mechanic; equipment operator, general supervisor and drivers of vehicles carrying over 15 persons.

Split Specimen Bottle B--a part of the urine specimen that is sent to a first laboratory and retained unopened and is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen.

Substance Abuse Professional ("SAP")--a licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, marriage counselor 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.

Substituted specimen--A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with normal human urine.

Third Party Administrator (“TPA”)--a service agent that provides or coordinates the provision of a variety of drug- and alcohol-testing services to employers. The TPA performs administrative tasks concerning the operation of the drug and alcohol testing program, adheres to generally-accepted standards for administrative services, testing, training, medical review, confidentiality and business ethics and assures that programs are operated in compliance with the DOT and the FTA, any state or federal regulations, as well as City policies.

Validity testing--evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

Vehicle--means a bus, electric bus, van, automobile, rail car, trolley car, trolley bus or vessel. A public transportation vehicle is a vehicle used for public transportation or ancillary services.

Verified Negative Test--a drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use above the minimum cutoff levels established by the DHHS.

Verified positive test--a drug test result reviewed by a MRO and determined to have evidence of prohibited drug use above the minimum cutoff levels.

Volunteer--A volunteer is a covered employee if: (1) the volunteer is required to hold a commercial driver's license to operate the vehicle; or (2) the volunteer performs a safety-sensitive function for an entity subject to this part and receives remuneration in excess of his or her actual expenses incurred while engaged in the volunteer activity.

SCOPE

Covered Employees

Covered employees. This Policy applies to all of the City’s full- and part-time safety-sensitive employees who are subject to drug and alcohol testing under this Policy. Additionally, all full- and part-time employees of any company or organization who perform safety-sensitive functions on behalf of or under contract with the City are subject to drug and alcohol testing under this Policy. Currently, the FTA has defined safety-sensitive job function to mean any of the following duties when performed by employees of recipients, sub-recipients, operators, or contractors:

- 1) Operating a revenue service vehicle, including when not in revenue service.
- 2) Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver’s License.

- 3) Controlling dispatch or movement of a revenue service vehicle.
- 4) Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service.
- 5) Carrying a firearm for security purposes.

The City has reviewed all the actual duties performed by its employees to determine who performs safety-sensitive functions and has determined the below-listed job titles as performing safety-sensitive duties:

- Senior maintenance repair or senior maintenance repairers
- Coordinator, maintenance service
- Supervisor, maintenance repair
- Maintenance repair
- Omnibus operator
- Mechanic
- Equipment operator
- General supervisor

Supervisors are subject to the provisions of this Policy only if they perform, or have the opportunity to perform, a safety-sensitive function.

The City does not use volunteers to provide safety-sensitive duties.

Prohibited Drugs

Federal requirements provide authorization for testing for only five drugs. Procedures used to test for the presence of drugs are in accordance with 49 C.F.R. Part 40 and Part 655, which requires testing of urine specimens for the following five types of drugs or their metabolites: marijuana, cocaine, opiates, PCP and amphetamines.

Time of Testing While on Duty

Covered employees are subject to testing for these five prohibited drugs at any time while they are on duty.

Prescription Medication

Additionally, separate from any DOT and FTA requirements, under the independent authorization of the City, if an employee is using any prescription drug which might impair his or her ability to perform work, he or she must inform the DER about this possible effect. Before commencing work, the employee must also provide the DER with the name of the prescription and a doctor's authorization to work. All such information provided to the City will remain confidential.

Consistent with federal law, the use of another person's prescription medication shall be considered unauthorized use of medication. It is also considered a violation of this Policy if there is clinical evidence that an employee is abusing a legitimately-prescribed drug.

In addition, if a drug can only be obtained by prescription in the United States, it is a violation of this Policy for an employee to obtain that drug from a foreign county where no prescription is required and use it while working, unless there is a verifiable, legitimate medical explanation.

An employee's failure or refusal to properly inform the DER or to produce acceptable medical documentation, upon request, may be subject to disciplinary action outlined in the section titled "Disciplinary Action as a Result of a Positive Test" of this Policy.

Right to Inspect

Additionally, separate from any DOT and FTA requirements, under the independent authorization of the City based upon reasonable suspicion that an employee is violating this Policy, the City has the right to require the employee to submit to a search of clothing, locker, lunch box, bag(s), purse, briefcase, desk, file cabinet(s) and/or vehicle. The City reserves the right to inspect, investigate and search for drug and/or legal substances such as alcohol at any time, with or without prior notice, on or in any and all of the City's premises.

Employees will be required to sign a consent form prior to a search. If an employee refuses to sign the consent form and refuses to submit to the search, he or she will be subject to disciplinary action outlined in the section titled "Disciplinary Action as a Result of a Positive Test" of this Policy.

Rehabilitation

Additionally, separate from any DOT and FTA requirements, under the independent authorization of the City, the goal of this Policy is to balance its respect for individuals with the need to maintain a safe, productive and alcohol- and drug-free environment. The intent of this Policy is to offer a helping hand to those who need it, while sending a clear message that the improper consumption of alcohol or illegal use of drugs is incompatible with employment with the City.

Therefore, if an employee has a problem with alcohol or drugs, he or she is strongly encouraged to come forward voluntarily to seek help. In this event, the matter will be kept confidential, and the employee will be referred to a rehabilitation center. Self-identification must be made prior to the time that an employee is directed to take a screening test and may only be used once. However, self identification is NOT an option in the following situations: pre-employment, random, post-accident, reasonable suspicion, return to duty or follow-up testing.

Additionally, separate from any DOT and FTA requirements, under the independent authorization of the City, voluntary rehabilitation will normally only be available once and only if the employee comes forward before the City has reasonable suspicion that the employee has violated the Policy.

Rehabilitation will be at the City's expense to the extent that it is covered by the City's insurance policies.

An unpaid leave of absence will be granted for a reasonable period for treatment. The City will make every effort to hold the employee's position during the rehabilitation process. The City will not take disciplinary action against an employee who voluntarily admits having an alcohol and/or drug problem unless that employee refuses to enroll in and complete a rehabilitation program. It is a condition of employment for employees to submit to non-DOT alcohol and/or drug testing as part of a follow-up program for treatment for alcohol and/or drug abuse.

It is crucial to note that the accommodations in this section apply only when an employee voluntarily comes forward. If an alcohol and/or drug abuse problem is disclosed to the City only after there has been (1) a random alcohol and/or drug selection, (2) a positive alcohol or drug test, (3) a violation of the City's policy, rule or standard, (4) a violation of law, or (5) a violation of this Policy, the City will not consider the employee to have voluntarily come forward.

Refusal to Submit to Testing for Alcohol and/or Drugs

In accordance with 40 C.F.R. Part 655, the following are considered a refusal to test if the employee:

- 1) Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the City, after being directed to do so by the City;
- 2) Fails to remain at the testing site until the testing process is complete;
- 3) Fails to provide a urine specimen or adequate amount of breath for any drug or alcohol test required by 49 C.F.R. Part 40 or DOT agency regulations;
- 4) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of his or her provision of a specimen;
- 5) For an observed collection, fails to follow the observer's instructions to raise his or her clothing above the waist, lower clothing and underpants and turn

around to permit the observer to determine if he or she has any type of prosthetic or other device that could be use to interfere with the collection process;

6) Possessing or wearing a prosthetic or other device that could be used to interfere with the collection process;

7) Admitting to the collector or MRO that he or she adulterated or substituted the specimen;

8) Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;

9) Fails or declines to take a second test the employer or collector has directed him or her to take;

10) Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the “Shy Bladder” or “Shy Lung” procedures;

11) Fails to sign the certification at Step 2 of the Alcohol Test Form;

12) Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process, fails to wash hands after being directed to do so by the collector).

13) If the MRO reports that he or she has a verified adulterated or substituted test result, that test is considered a refusal to test.

Any covered employee who refuses to submit to a drug or alcohol test will be immediately removed from performing any safety-sensitive function and, in accordance with 49 C.F.R. Part 40 and Subpart O, will be referred to the City’s SAP.

Fail A Drug Abuse Test (Test Positive)

If the confirmation test result shows positive evidence for the presence of a prohibited drug under 49 C.F.R. Part 40 procedures, the employee shall be contacted by the MRO. Any covered employee who fails a drug test will be immediately removed from performing safety-sensitive functions and, in accordance with 49 C.F.R. Part 40 and Subpart O, will be referred to the City’s SAP.

MRO Responsibility

The designated MRO shall have no connection and/or conflict with the subcontractor performing the laboratory testing and analysis. The MRO shall be knowledgeable in controlled substance abuse and will have received qualification training in accordance with 49 C.F.R. Part 40.12. The MRO review process will be followed in accordance with 49 C.F.R. Part 40.

If the MRO reports that an employee has tested positive for prohibited drugs, that employee will be immediately removed from safety-sensitive functions and, in accordance with 49 C.F.R. Part 40, and Subpart O, will be referred to the City's SAP.

If the MRO reports that a negative drug test was dilute, the City will direct the employee to take another test immediately. Such recollections will not be collected under direct observation, unless there is another basis for use of direct observation.

SAP Role

Employees or applicants who have a verified positive drug test result, an alcohol concentration of 0.04 or greater, or who refuse to submit to a drug or alcohol test will, in accordance with 49 C.F.R. Part 40 and Subpart O, be referred to the City's SAP.

Pass (Test Negative)/Fail (Test Positive) an Alcohol Test

In the event of a BrAC concentration result of 0.02 or greater, the BAT will direct the employee to take a confirmation test. The BAT will ensure that the waiting period lasts at least fifteen (15) minutes, but not more than thirty (30) minutes after the completion of the first screening test. If the alcohol confirmation test is lower than 0.02, nothing further is required of the employee. If the alcohol confirmation test result is above 0.02 and below 0.04, the employee will be removed from safety-sensitive functions.

If the alcohol confirmation test result is 0.04 or greater, it is a positive test. The employee will be immediately removed from safety-sensitive functions and will be referred to a SAP.

Disciplinary Action as a Result of a Positive Test

Additionally, separate from any DOT and FTA requirements, under the independent authorization of the City, if the results of a alcohol and/or prohibited drug screen are positive, the employee will be subject to discipline, up to and including discharge, and/or requested to undergo rehabilitation until such time as he or she is declared fit to return to work by the rehabilitation center. The circumstances leading to the positive result will be taken into consideration in determining the disciplinary action. An employee who refuses to undergo rehabilitation or does not follow the recommendations of the rehabilitation program may be subject to discharge.

If returning to work, the employee will be subject to either DOT or non-DOT follow-up testing, depending on the circumstances leading to the removal from service.

In the event of a positive alcohol test, regardless of alcohol level or refusal to test, the DER will transport the employee to his or her residence.

Alcohol Penalties

In accordance with the provisions under the City's authority as employer, the following penalties shall apply:

- (1) Positive Test at 0.040 or Greater. Violations of this Policy are subject to disciplinary action, up to and including termination.
- (2) Refusal of Alcohol Testing. A refusal to submit to alcohol testing as required by this Policy shall constitute a violation of the Policy.
- (3) Violations of this Policy are subject employees to disciplinary action up to and including termination.

Prohibited Drug Penalties

In accordance with the provisions under the City's authority as employer, the following penalties shall apply:

- 1) Individuals not yet employed--All job applicants extended a conditional offer of employment for a position with the City will undergo testing for the presence of prohibited drugs as a condition of employment. Any applicant with a confirmed positive test result will be denied employment.
- 2) Individuals employed--When the City receives a verified positive for drug use test result from the MRO, the employee shall be immediately removed from safety-sensitive functions and referred to the City's SAP for evaluation. He or she must comply with the SAP's assessment and referred treatment recommendations and monitoring and meet the return-to-duty test requirements of 49 C.F.R. Part 40, Subpart O before the employee may be considered for reinstatement.
- 3) If any employee fails to return to work upon the prescribed time or refuses to comply with complete treatment, he or she shall be subject to disciplinary action.
- 4) The penalty for an employee refusing to submit to a prohibited drug test as required by this Policy or who fails to comply with the recommended treatment plan shall be the same as a positive test result.

Additionally, separate from any DOT and FTA requirements, under the independent authorization of the City, the employee will be informed of resources available for counseling and treatment of persons with drug abuse problems.

If employee is returning to work, it is a condition of employment for employees to submit to alcohol and/or drug testing as part of his or her return-to-duty or follow-up program.

Pass a Substance Abuse Test (Test Negative)

If the initial testing or confirmation testing under 49 C.F.R. Part 40 procedures does not show evidence of the presence of a prohibited drug in the employee's or applicant's system, it will be classified as passing a drug test or having tests rated as negative.

QUALIFICATIONS FOR EMPLOYMENT AND PROHIBITED CONDUCT

Prohibited Conduct

Alcohol Possession/Misuse--The following activities and/or actions are a violation of this Policy:

- 1) Additionally, separate from any DOT and FTA requirements, under the independent authorization of the City, it is a violation of this Policy for any covered employee to possess alcoholic beverages while on duty.
- 2) Additionally, separate from any DOT and FTA requirements, under the independent authorization of the City, it is a violation of this Policy for any covered employee to work under the influence of alcohol, including rest and meal periods.
- 3) It is a violation of this Policy for any covered employee to test positive for alcohol at or above a BrAC of 0.020L of breath.
- 4) It is a violation of this Policy for any covered employee to consume alcohol for the four (4) hours before a scheduled work period.
- 5) It is a violation of this Policy for any covered employee to consume alcohol for the eight (8) hours after an accident until a Breath Alcohol Test has been administered.
- 6) It is a violation of this Policy for any covered employee to consume alcohol while on call or stand by.
- 7) It is a violation of this Policy for any employee to refuse to take any required alcohol test.

- 8) Additionally, separate from any DOT and FTA requirements, under the independent authorization of the City, it is a violation of this Policy for any covered employee to refuse to comply with any provision of this Policy.
- 9) Additionally, separate from any DOT and FTA requirements, under the independent authorization of the City, it is a violation of this Policy if alcohol is found in through other legally-sanctioned procedures (e.g., police department administered tests).

Prohibited Drug Possession--The following activities and/or actions are a violation of this Policy:

- 1) Additionally, separate from any DOT and FTA requirements, under the independent authorization of the City, it is a violation of this Policy for any covered employee to possess, sell, trade, offer for sale or engage in illegal use of prohibited drugs or product containing an illegal controlled substance. Employees who are convicted of offenses involving prohibited drugs in the workplace must inform the DER within five days of their conviction or plea. Failure to give this notice can be grounds for disciplinary action outlined in the section titled “Disciplinary Action as a Result of a Positive Test “of this Policy.
- 2) It is a violation of this Policy for any covered employee to work under the influence of prohibited drugs.
- 3) Additionally, separate from any DOT and FTA requirements, under the independent authorization of the City, it is a violation of this Policy for any covered employee to use prescription drugs illegally. Nothing in this Policy precludes the appropriate use of legally-prescribed medications in employee’s name only.
- 4) It is a violation of this Policy for any covered employee to test positive for prohibited drugs.
- 5) It is a violation of this Policy for any covered employee to refuse to take any required drug test.
- 6) It is a violation of this Policy for any covered employee to refuse to comply with any provision of this Policy.
- 7) Additionally, separate from DOT and FTA requirements, it is a violation of this Policy if a drug or metabolite of a drug is found in through other legally-sanctioned procedures (e.g., police department administered test).

Periods of Required Compliance

All employees who perform safety-sensitive functions for the City, either in a part-time or full-time capacity, will be subject to the provisions of this Policy for the entirety of their shift.

TEST REQUIRED

Testing For Presence of Alcohol

Breath alcohol testing will be conducted in accordance with the regulations specified in 49 C.F.R. Part 40, Subparts J, K, L, M and N. Alcohol screening will be provided utilizing a NHTSA-conforming product list (CPL) EBT. The breath testing equipment will conform to 49 C.F.R. § 40.229.

The City will test covered employees for alcohol just before, during or just after performing a safety-sensitive function.

Use of Alcohol

The consumption of any alcoholic substance, beverage or mixture, including, but not limited to, any medication containing alcohol, is prohibited within four (4) hours prior to performing a safety-sensitive duty, while on-call to perform a safety-sensitive duty, while performing a safety-sensitive duty or within eight (8) hours following an accident or until the employee undergoes a post-accident alcohol test, whichever occurs first. Alcohol testing for random and reasonable suspicion is only permissible just before an employee performs safety-sensitive duties, during the performance of those duties, and just after an employee has performed covered duties.

Life Consequences of Alcohol Misuse

The chronic consumption of alcohol (average of three servings per day of beer, whiskey or wine) over time may result in the following life consequences;

Health: decreased sexual functioning, dependency on alcohol, fatal liver disease, increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma, kidney disease, pancreatitis, spontaneous abortion and neonatal mortality, ulcers and birth defects.

Work: the effects of alcohol misuse on an individual's work include impairment in coordination and judgment and a higher likelihood of having an accident than that of a sober person.

Personal Life: the effects of alcohol misuse on an individual's personal life include increased exposure to committing homicides, motor vehicle accidents,

family problems including separation and divorce, increased likelihood of committing suicide and greater exposure to other forms of accidents.

Signs and Symptoms: dulled mental processes, lack of coordination, odor of alcohol on breath, possible constricted pupils, sleepy or stuporous condition, slowed reaction rate and slurred speech.

When an alcohol problem is suspected, the available methods of intervention include the availability of a crisis response/EAP offered by the City that addresses family problems as well as substance abuse.

Employee Assistance Program (EAP)

Additionally, separate from any DOT and FTA requirements, under the independent authorization of the City, any employee may voluntarily make use of the current EAP provided through the City for assistance with any personal problems, including self-referral for drug and alcohol treatment. This shall be the same program that will be used to assist those affected employees under the alcohol misuse and drug use program. All information will be kept in strict confidence, and the appropriate referral will be made to assist the employee.

The City does not make any representation as to insurance coverage for any treatment or rehabilitation program that may be recommended by the SAP or the MRO.

Employees who enter rehabilitation voluntarily will be entitled to use their accumulated vacation time and sick time balances if they so choose.

Information about Wellness Coaches USA, the City's EAP provider, is listed on Appendix A of this Policy.

Pre-Employment Testing

The City will conduct pre-employment drug testing. In accordance with 49 C.F.R. Part 40, each safety-sensitive function applicant must consent in writing for the City to obtain the applicant's drug and alcohol testing records from each previous DOT-regulated employer of the applicant for a two-year period preceding the date of application for employment with the City. If an applicant or transfer employee fails to consent, that person will not be hired into a safety-sensitive function position. Should a previous employer indicate the applicant or transfer failed or refused a drug and/or alcohol test, the applicant or transfer must provide the City with proof of having successfully completed a referral, evaluation and treatment plan designed by a SAP.

All applicants for a safety-sensitive position will be notified at the time they complete a job application that they will be required to submit to a prohibited drug test if they are

considered otherwise qualified for employment and that they must agree to abide to the terms and conditions of this Policy if they are ultimately hired.

Prior to the first time that any potential employee performs a safety-sensitive function for the City, he or she shall be subject to a pre-employment drug test with a verified negative result.

Additionally, separate from any DOT and FTA requirements, under the independent authorization of the City, those persons who undergo a pre-employment drug test in which the verified test results indicate positive use shall not be hired.

Current employees transferring from one position to another with the former, not including a safety-sensitive function, shall undergo a pre-duty controlled substances test with a verified negative test result prior to beginning any safety-sensitive function. If a positive result is reported, he or she shall be subject to section titled “Disciplinary Action as a Result of a Positive Test” of this Policy.

All safety-sensitive employees who have been off from work for a period of ninety (90) consecutive calendar days and removed from the random testing pool must successfully pass a pre-employment drug test prior to returning to work. An applicant or transferred employee who has not commenced performing a safety-sensitive function within ninety (90) consecutive calendar days of the City’s receipt of a negative test result for that individual must successfully pass another pre-employment test before performing such safety-sensitive function.

Post-Accident Testing

The accident threshold definition is located in the section titled “Definitions of Terms” of this Policy.

Fatal Accidents--For safety-sensitive employees employed by the City, as defined in 40 C.F.R. Part 655.44, post-accident drug and alcohol testing is mandatory following an accident involving the loss of human life on the surviving employees who were operating the public transportation vehicle, as well as any covered employee whose performance may have contributed to the accident, as determined by the City using the best information available at the time of the decision.

Non-Fatal Accidents--For safety-sensitive employees employed by the City, as defined in 40 C.F.R. Part 655.44, post-accident drug and alcohol testing is mandatory for all covered employees who were operating the public transportation vehicle, as well as any covered employee whose performance may have contributed to the accident, unless the City determines their performance can be completely discounted as a contributing factor using the best information available at the time of the decision.

***Post-accident testing that does not meet the FTA post-accident threshold may take place. However, testing under this authority will be performed using a non-DOT custody and custody form.**

In the event of an accident occurring as described above, the employee shall be required to remain at the scene of the accident or readily available to undergo drug and alcohol testing. Drug and alcohol testing shall not delay necessary medical attention for the injured following an accident or prohibit a covered employee from leaving the scene of the accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

Any employee subject to post-accident testing as required by this section who leaves the scene of an accident before a drug and alcohol test is administered or fails to remain readily available for testing for up to thirty-two (32) hours after the accident shall be deemed to have refused to submit to testing. Such a refusal shall be treated by the City in the same manner as if the employee had a positive drug and alcohol test result.

All drug and alcohol testing required by this Section shall be performed by the City's authorized agent within two (2) hours but no more than thirty-two (32) hours after the time of the accident.

Additionally, if an alcohol test is not administered within two (2) hours following an accident, the City shall prepare and maintain on file a record stating the reasons why. If an alcohol test is not conducted within eight (8) hours, the City shall prepare and maintain on file a report explaining why a test was not conducted and shall cease attempts to administer an alcohol test. If a drug test is not administered within thirty-two (32) hours following an accident, the City shall prepare and maintain on file a record stating the reasons why. The time of the accident shall be determined by the hour utilized on the police accident report.

Additionally, separate from any DOT and FTA requirements, under the independent authorization of the City, while awaiting the results of a post-accident testing, the employee will be suspended with pay.

Random Testing

Random drug and/or alcohol testing for covered employees will be conducted in accordance with the requirements of 49 C.F.R. Part 655.45.

Random drug and/or alcohol testing shall be unannounced, unpredictable and spread reasonably throughout the calendar year, including holidays and days and hours during which safety-sensitive functions are performed.

Using a statistically-valid method, a computer-based random number generator, the City's program administrator, shall assure that a sufficient number of random drug and

alcohol tests equal to the minimum percentage of the total number of covered employees is conducted each calendar year in accordance with 49 C.F.R. Part 655.45. Each covered employee shall have an equal chance of being tested each time selections are made. These rates are subject to annual review and revision by the FTA Administrator. The City shall be responsible for the security of all random lists generated.

Safety-sensitive employees may be randomly tested for alcohol misuse while performing safety-sensitive functions, just before performing safety-sensitive functions or, just after performing safety-sensitive functions. All safety-sensitive employees may be randomly tested for drugs anytime while on duty. Testing will be performed during all hours safety-sensitive duties are performed.

When notified of a random test, the employee must proceed immediately to the collection site. Immediately means that after notification, all the employee's actions must lead to an immediate specimen collection.

Reasonable Suspicion Testing

All employees who supervise safety-sensitive personnel affected by this Policy shall undergo reasonable suspicion training in accordance with 40 C.F.R. Part 655.14 in the signs and symptoms that are associated with drug or alcohol use.

An employee is required to submit to an alcohol and or drug test when a trained supervisor or other trained City official has reasonable suspicion, based on specific contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee, to believe that the employee has engaged in any of the behaviors prohibited by this Policy concerning the use of alcohol and/or drugs.

Additionally, separate from any DOT and FTA requirements, under the independent authorization of the City, prior to conducting reasonable suspicion drug and/or alcohol testing, the DER must meet with the employee. At least two management representatives should be present. A management representative must explain to the employee that the City has determined that he or she is required to submit to reasonable suspicion drug and/or alcohol testing and share the completed Supervisor's Report of Reasonable Suspicion form with the employee. The purpose of the meeting is to provide the employee with an opportunity to provide an explanation for the behavior that provided the City with reasonable suspicion. The City's failure to conduct a meeting with the employee prior to mandating reasonable suspicion drug or alcohol testing, however, does not invalidate a positive test result. Reasonable suspicion testing must not be delayed and, when practical, take place within thirty (30) minutes from the time listed observations are made by a trained supervisor.

Alcohol testing shall be conducted no more than two (2) hours and within eight (8) hours after the reasonable suspicion determination has been made by the supervisor. Drug testing shall be conducted within thirty-two (32) hours after the reasonable suspicion

determination has been made by the trained supervisor or other trained City official. In the event that, as required by this section, an alcohol test is not administered within eight (8) hours and a drug test is not administered within thirty-two (32) hours following the determination, the DER and the City shall cease attempts to administer a test and document the reason why the test did not take place.

Safety-sensitive employees are subjected to reasonable suspicion testing for alcohol misuse while performing safety-sensitive functions, just before performing safety-sensitive functions or just after performing safety-sensitive functions. All safety-sensitive employees are subjected to reasonable suspicion testing for drug and alcohol testing anytime while on duty.

It is the City's policy to have a supervisor transport the employee to the appropriate collection site facility and wait for the completion of the collection procedure. The supervisor will then transport the employee back to City property, where an individual of the employee's choice will be contacted to transport the employee to his or her residence. If the employee refuses to be transported and attempts to operate his or her personal vehicle, the City will make appropriate efforts to discourage the employee from doing so, up to and including contacting the City's Police Department. Any employee failing to cooperate with this procedure will be subject to disciplinary action up to and including termination from the City.

Additionally, separate from any DOT and FTA requirements, under the independent authorization of the City, while awaiting the results of a reasonable suspicion screen the employee will be suspended with pay.

Return to Duty Testing

In the situations where a safety-sensitive employee refuses to submit to a test, has a verified positive drug test and/or confirmed alcohol test result of 0.04 or greater, before returning the employee to a safety-sensitive position, the City will follow the procedures outlined in 49 C.F.R. Part 40.

Prior to returning to a safety-sensitive function, any safety-sensitive employee who was determined to have engaged in prohibited drug and/or alcohol misuse in violation of Federal regulation shall undergo a return-to-duty controlled substance and/or alcohol test and will be allowed to return only with a verified negative test result.

All such drug tests will be conducted under directly-observed circumstances.

Follow-up Testing (After Returning to Duty)

The City will conduct follow-up testing of each employee who returns to duty, as specified in 49 C.F.R. Part 40.

Any covered employee who has required a referral, evaluation and/or treatment by a SAP for prohibited drug use and/or alcohol misuse shall be subject to unannounced follow-up testing plan as directed by the SAP.

Follow-up testing for alcohol as required by this Section shall be performed just before, during, or immediately after the employee performs safety-sensitive duties.

In no case shall said drug and/or alcohol testing occur less than six (6) times in the first twelve (12) months following the covered employee's return to duty, nor shall testing extend more than five (5) years from the time he or she returns to duty.

All such drug tests will be conducted under directly-observed circumstances.

Company-Mandated Testing Circumstances

Additionally, drug and alcohol testing may take place under the independent authorization of the City and will be conducted in accordance with the applicable provisions of the City; however, testing under the authority of the City will be performed using non-DOT Custody and Custody form.

DRUG AND ALCOHOL TESTING PROCEDURES

Compliance with Testing Procedures

All drug and alcohol testing procedures in 49 C.F.R. Part 40 apply to all safety-sensitive employees of the City engaged in the performance of safety-sensitive functions for the City. This document is available for review at:

City of Hoboken
Division of Personnel & Benefits
94 Washington Street
Hoboken, New Jersey 07030
201-201-2376

Breath Alcohol Technician

The BAT will perform the functions, and meet all the requirements outlined in 49 C.F.R. Part 40. The City has a formal agreement with an occupational health center to perform BAT services listed on Appendix A of this Policy.

***BAT Collection Certification Documentation is maintained on file at the office of the City's Third Party Administrator.**

Substance Abuse Professional

The SAP will perform the functions and meet all the requirements outlined in 49 C.F.R. Part 40. The City has a formal agreement with the individual to perform SAP services listed on Appendix A of this Policy.

***SAP Certification Documentation is maintained on file at the office of the City's Third Party Administrator.**

Medical Review Officer

The MRO will perform the functions and meet all the requirements outlined in 49 C.F.R. Part 40. The City has a formal agreement with the individual to perform MRO services listed on Appendix A of this Policy.

***MRO Certification Documentation is maintained on file at the office of the City's Third Party Administrator.**

Collection Site

The City has a formal agreement with an occupational health center to perform collection services listed on Appendix A of this Policy to provide a clean and compliant location staffed with trained collection site personnel, for the collection of urine to be drug tested in accordance with 49 C.F.R. Part 40. All collections performed in accordance with 49 C.F.R. Part 40 drug testing regulations will be split specimen collections.

***Urine Collection Certification Documentation is maintained on file at the office of the City's Third Party Administrator.**

Testing Laboratory

In accordance with 49 C.F.R. Part 40, all laboratories testing urine specimens for prohibited drugs will be performed through a laboratory certified by the DHHS. The City has a formal agreement with a primary and secondary laboratory to perform drug screen analysis services as listed on Appendix A of this Policy.

ADMINISTRATIVE REQUIREMENTS

All safety-sensitive employees of the City will receive a copy of this Policy and shall be required to sign and date acknowledging receipt of it.

Employee Education and Training

In accordance with 49 C.F.R. Part 655, the City will conduct a comprehensive, two part-training program for employees as described below.

The education component shall include display and distribution to every covered employee of informational material and a community service hotline telephone number for employee assistance.

Safety-sensitive employees will receive at least sixty (60) minutes of training on the effects and consequences of prohibited drug use on personal health, safety and the work environment, as well as the signs and symptoms that may indicate prohibited drug use. Additionally, periodically, employees will receive information and training which explain the implications of workplace substance abuse and review the City's Policy regarding drugs and alcohol, including the availability of counseling and the EAP.

Supervisor Reasonable Suspicion Training --The DER, supervisors and other officials authorized by the City to make reasonable suspicion determinations shall receive a minimum of sixty (60) minutes of training on the physical, behavioral and performance indicators of probable drug use and a minimum of sixty (60) minutes of training on the physical, behavioral, speech and performance indicators of probable alcohol misuse.

Confidentiality and Retention of Records

The City will maintain all drug and alcohol testing records in accordance with 49 C.F.R. Part 40, Subpart P.

Additionally, separate from any DOT and FTA requirements, under the independent authorization of the City, the City wants to work with and not against employees with drug and/or alcohol problems. Mandating confidentiality regarding the problem, any test results and any disciplinary actions are important parts of the City-provided support.

When the employee voluntarily seeks help, he or she can do so confidentially and without fear of reprisal by contacting DER resources, which will not disclose the employee's problem to anyone. The employee's supervisor will be told only that the employee is on medical leave of absence without disclosing the problem being treated.

All test results, whether positive or negative, will be held in strictest confidence. The TPA will communicate test results orally and in writing only to the DER. The Personnel Officer, the DER and the City's legal counsel will be the only persons with access to test results.

If a test result is positive, the employee's manager will be informed only that the employee has violated a company policy, with resulting disciplinary consequences. In response to questions by third parties, including coworkers, management and the DER will state nothing other than that the employee has violated City policy, without mentioning the specific policy.

Access to Facilities and Records

The City, in accordance with 49 C.F.R. Part 40 Subpart P, will provide limited access and release of drug and alcohol testing records. In accordance with 49 C.F.R. Part 655.73, the City grants access to facilities and records to the appropriate Transit representative for the purpose of determining compliance with FTA drug and alcohol testing regulations.

APPENDIX A

Third Party Administrator (TPA)

Qual-Lynx
P.O. Box 1209
Piscataway, New Jersey 08854
908-222-7500

Designated Employer Representative (DER)

Michael Korman, Personnel Officer
City of Hoboken
Division of Division of Personnel & Benefits
94 Washington Street
Hoboken, New Jersey 07030
201-201-2376

Collection sites

MaryAnne Ostrowsky
PromptMD
309 1st Street
Hoboken, New Jersey 07030
201-222-8411
javed_islam@msn.com

Breath Alcohol Technician (BAT)

MaryAnne Ostrowsky
PromptMD
309 1st Street
Hoboken, New Jersey 07030
201-222-8411
javed_islam@msn.com

DHHS-approved laboratory

Quest Diagnostic
10101 Renner Boulevard
Lenexa, Kansas 66219
800-877-7484

Medical Review Officer (MRO)

Arthur J Schatz, M.D.
Concorde Inc.
1835 Market Street
Suite 1200
Philadelphia, Pennsylvania 19103-2994
215-563-0224
MROstaff@Concorde2000.com

Substance Abuse Professional (SAP)

Orlando Ramos, LSW, LCADC, CCS, SAP
Care Point Health
Giant Steps
61 Monroe Street
Hoboken, New Jersey 07030
201-792-8290
oramos@Hobokenumc.com

Employee Assistance Program (EAP)

Megan Marchetti
Wellness Coach
Wellness Coaches USA
725 Skippack Pike, Suite 300
Blue Bell, Pennsylvania 19422
866-894-1300, Ext. 218
mmarchetti@wcusa.com
www.wellnesscoachesusa.com

1st reading ②
11-18-13

Sponsored by: [Signature]
Seconded by: [Signature]

CITY OF HOBOKEN
ORDINANCE NO. Z-269

**AN ORDINANCE TO AMEND AMENDING CHAPTER 190 ENTITLED
"VEHICLES AND TRAFFIC" TO AMEND PARKING REGULATIONS
RELATING TO PARKING PROHIBITION**

WHEREAS, Chapter 190 of the General Code of the City of Hoboken establishes the rules and regulations associated with parking permits within City borders; and,

WHEREAS, the municipality has found that specific sections of Chapter 190 currently requires amendments in order to best effectuate parking in the City; and,

WHEREAS, the City Council wishes to more closely align the City's actual parking practices with the best practices for parking and transportation.

NOW, THEREFORE, the City Council of the City of Hoboken does hereby Ordain as follows (additions noted in underline, ~~deletions noted in strikethrough~~):

SECTION ONE: AMENDMENTS TO HOBOKEN CODE CHAPTER 190

§ 190-3. Parking prohibited at all times.

In accordance with the provisions of this § 190-3, no person shall park a vehicle at any time upon the following streets or portion thereof except for the pickup and drop off of passengers, in accordance with N.J.S.A. 39:4-139:

Name of Street	Sides	Location
<u>Sixteenth Street</u>	<u>North</u>	<u>Beginning at the easterly curbline of Willow Avenue extending to the westerly curbline of Park Avenue</u>

§ 190-6B. No stopping or standing.

B. Stopping or standing prohibited at any time. In accordance with the provisions of this subsection, no person shall stop or stand a vehicle at any time upon any of the following described streets or parts of streets:

<u>Sixteenth Street</u>	<u>South</u>	<u>Beginning at the easterly curbline of Willow Avenue and extending to the westerly curbline of Park Avenue</u>
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SECTION TWO: REPEAL OF INCONSISTENT PROVISIONS

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

SECTION THREE: SEVERABILITY

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION FOUR: EFFECTIVE DATE

This Ordinance shall take effect immediately upon passage and publication as provided by law.

SECTION FIVE: CODIFICATION

This ordinance shall be a part of the Code of the City of Hoboken as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Code.

The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Hoboken in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

Date of Introduction: November 18, 2013

Introduction:

Councilperson	Yea	Nay	Abstain	No Vote
Ravi Bhalla	/			
Theresa Castellano	/			
Jen Giattino	/			
Elizabeth Mason	/			
David Mello	/			
Tim Occhipinti	/			
Michael Russo	/			
President Peter Cunningham	/			

Final Reading:

Councilperson	Yea	Nay	Abstain	No Vote
Ravi Bhalla				
Theresa Castellano				
Jen Giattino				
Elizabeth Mason				
David Mello				
Tim Occhipinti				
Michael Russo				

Approved as to Legal Form:

Mellissa Longo, Corporation Counsel

Adopted by the Hoboken City Council

By a Vote of ____ Yeas to ____ Nays

On the ____ day of _____, 2013

James Farina, City Clerk

Vetoed by the Mayor for the following reasons: _____

-or-

Approved by the Mayor

On the ____ day of _____, 2013

Dawn Zimmer, Mayor

1st reading
11-18-13

(3)

Sponsored by: [Signature]
Seconded by: [Signature]

CITY OF HOBOKEN
ORDINANCE NO: Z-270 7 290

AN ORDINANCE AMENDING THE NORTHWEST REDEVELOPMENT PLAN AND APPENDIX A OF CHAPTER 196 OF THE CODE OF THE CITY OF HOBOKEN

WHEREAS, by Ordinance adopted May 20, 1998, the City Council of the City of Hoboken (“City Council”) adopted a redevelopment plan known as the Northwest Redevelopment Plan for the redevelopment of an area in the City of Hoboken known as the Northwest Industrial Area, which was determined to be an area in need of redevelopment pursuant to the Local Redevelopment and Housing Law (“Redevelopment Law”), N.J.S.A. 40A:12A-1 et seq.; and

WHEREAS, the Northwest Redevelopment Plan is reprinted in Appendix A of Chapter 196 of the Code of the City of Hoboken; and

WHEREAS, Block 74 Lots 3-20 and the surrounding rights of way are located immediately adjacent to the Northwest Industrial Area; and

WHEREAS, Block 74 Lots 3-20 and the surrounding rights of way were declared an Area in Need of Rehabilitation per the Redevelopment Law; and

WHEREAS, to ensure that the development of these two adjacent areas is coordinated efficiently and effectively it is desired that the redevelopment plan for the Block 74 Lots 3-20 and the surrounding rights of way are included in the Northwest Redevelopment Plan; and

WHEREAS, the amendments to the Northwest Redevelopment Plan to include Block 74 Lots 3-20 and the surrounding rights of way meet the statutory requirements of, and can be adopted consistent with, the applicable provisions of the Redevelopment Law.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Hoboken as follows:

SECTION ONE: AMENDMENT

The “Zone 2” portion of the Northwest Redevelopment Plan is hereby amended to read as follows; deletions to the current ordinance are noted in ~~strike through~~, additions to the current ordinance are noted in underline:

**196 Zoning
Attachment 1
City of Hoboken
Appendix A - Redevelopment Plan for the Northwest Industrial Area**

Zone 2

Sub-Area 1: Blocks 80/81, 86 & 87

Blocks 80/81, 86 & 87 near the railroad along the Jersey City municipal boundary will be permitted to have residential buildings:

Where a redeveloper chooses to combine residential use with permitted non-residential principal uses such as community facility or office or commercial recreation in a single building, all residential use — except for lobby access — must be located on floors above the other uses and have separate secure entrances. In such a case, the floor area of each use must be prorated relative to the site. Such prorating shall also apply to instances where pre-existing non-residential buildings remain whether for continued non-residential use or renovated for residential use. Residential floor area may abut parking areas which are physically separated but technically on the same level. Maximum building height shall be the maximum permitted for residential use and all residential floors shall have rear yards as required for residential buildings.

Where such a mixed-use building directly abuts an off-site residential development, the design shall be evaluated by the Planning Board as to potential negative impact on the access to light and air of the adjoining residential building or residential floors of such building.

The redeveloper of Block 80/81, which currently is a merged block encompassing the formerly vacated portion of Jackson St. between 7th and 8th St. shall open Jackson St. through the block to the extent necessary to allow vehicular circulation by the public in a manner mutually agreed on between the redeveloper and the city. The land itself may remain privately owned and maintained, may be counted toward developable floor area, but there shall be a permanent public easement provided to ensure public access along the designated right-of-way (ROW). If the vehicular ROW is designed as part of a programmable public space, the redeveloper may design the ROW in a manner different in appearance and alignment from standard city streets subject to review by the city's engineer. If the ROW is so designed and programmed, the redeveloper may count the area of the ROW toward a bonus and shall enter into an agreement with the city to permit limited closings for specified public events.

Whereas a single entity has been designated as redeveloper of all of Block 80/81 (with the exception of one lot owned by NJT) and Block 87 (lots 1-12 and 21-32), and whereas existing buildings may remain, the following rules may be applied: multiple principal buildings may be created so long as the maximum permitted floor area, maximum permitted lot coverages and minimum open space (i.e. yard areas) of the various uses are prorated as discussed above. The Planning Board may regard the combined site as a large-scale development and permit exceptions from the strict application of the setback requirements and the location of yards and parking in the interest of providing light, air and open space and a desirable visual environment so long as the general intent of the Plan is carried out.

If the redeveloper of Block 86, a 400 feet long trapezoidal-shaped block with approximately 113 feet of depth at Eighth Street and approximately 55 feet at Ninth Street, creates a public park at the Eighth Street end of the block, the park area itself may remain privately owned and

maintained, may be counted toward developable floor area, but, in such case, there shall be a permanent public easement provided to ensure public access pursuant to an agreement with the city. If such park is no less than approximately 12,040 square feet in area and if the redeveloper chooses the high-rise configuration for a residential building, and if the minimum average unit size is no less than 1,100 net square feet, then the maximum FAR attributable to the residential units, including a prescribed number of affordable units may be 3.88 excluding the bonus area. Retail and/or restaurant space will be subject to Planning Board approval.

As with the development of Blocks 80/81 & 87, the Planning Board may consider the peculiar and exceptional shape of Block 86 and permit exceptions from the strict application of the setback requirements and the location of yards in the interest of providing light, air and public open space including a designated area to be used as a bikeway in compliance with the City's Master Plan so long as the general intent of the Redevelopment Plan is carried out. In conjunction with such site planning for Block 86, the City may also allow the widening of the sidewalk along Jackson Street (with or without on-street parking) in order to improve the pedestrian ambience and to further "calm" the vehicular traffic on the street.

Residential buildings shall be designed as follows or pursuant to the Zone 1 option:

Building Height

ten residential floors (100 feet) over maximum of two floors (20 feet) of parking (maximum total building height 120 feet), except as varied below and under "Bonus FA": parking may be provided in a cellar as defined by the Hoboken zoning ordinance; such cellar parking shall not be counted as a "floor" so long as it extends less than 10 feet above the sidewalk grade nearest the front street facade and so long as the final height of the building does not exceed the maximum permitted.

where residential floor area is used to mask the parking, such residential use shall not be counted as a "residential floor" so long as maximum FAR and density have not been exceeded; if a combination of residential and non-residential (non-parking) floor area is so used, the parking may occupy up to two levels covering 90% of the site so long as the parking floors are completely masked and so long as all other regulations specified herein are complied with: the ground floor height may exceed 10 feet only to the extent necessary to raise the first residential floor level to base flood elevation.

a residential accessory parking structure may be 40 feet tall if all such floors are completely masked by residential or other non-parking floor area on at least three sides so long as the roof of the parking is landscaped and accessible to tenants of the site

(See "Bonus FA" below); if the fourth side abuts an off-site development within the Plan area, the structure at the lot line may

be a maximum of 20 feet in height, structure above that height must be set back a minimum of five feet or sufficient to minimize any negative impact on the light and air of the adjoining property; the visible portion of the wall which is set back from the property line shall be designed in a manner to disguise the parking use; where such structure is proposed on land adjacent to the railroad on Blocks 80/81 or Block 86, maximum height is 60 feet so long as the structure is not immediately adjacent to an off-site residential development.

Floor Area Ratio

3.0 (except as varied above and below)

Bonus FA

where public recreation space is created within the footprint of the residential structure or on adjacent lots within the residential zone boundaries (unless granted special exception by the City Council), the builder may add an equivalent amount of floor area to the building adding no more than an additional two floors (20 feet, for a total building height of 140 feet) subject to the following controls:

an area equivalent to at least 30% of any site area attributable to residential use shall be developed and accessible exclusively to site residents as private open space; such space may be calculated as any combination of on-grade areas and/or rooftops other than the roofs above residential floors, e.g. garage or office building roofs;

bonusable public space may be proposed from remaining open areas whether on-grade or on rooftops (each 1.0 square feet of rooftop space may generate 1.0 square feet of bonus residential floor area only if the Planning Board finds the design satisfactory including but not limited to the provision of easy and obvious accessibility to the public)

where the roof above the topmost residential floor is developed as a "green" roof and where such design allows access to tenants, such roof may count toward the 30% requirement; an enclosed community room which encloses the stair and elevator access to such roof shall be permitted; outside roof decks designed to enable tenants to maximize the enjoyment of such roof shall not be counted as roof coverage

the public recreation space may be no smaller than 50 feet by 50 feet in size if open, 25 feet by 25 feet if enclosed.

Density

maximum dwelling units permitted on the site shall be calculated by dividing permitted FA by 1,000; bonus FA may be translated into additional dwelling units by dividing it by 1,000.

Lot coverage

50% for the residential portion of the building or buildings; where multiple towers are planned, they shall be no closer than 60 feet window to window; (see Urban Design Guidelines: General Building Bulk and Yard Requirements).

90% for first parking level up to 10 feet above grade; if two levels of parking are created, the second floor of parking may not extend beyond a line drawn around all the exterior walls of the residential portion of the building; where complete masking is provided as described under "Building Height" above, the second parking floor may also cover 90%.

on Block 86, if the building is designed in conjunction with a public park as described above such that the footprint of the ground-floor covers less than 60% of the site, parking located on no more than one floor above such floor may match the lot coverage of said ground floor subject to the Planning board's approval of its urban design characteristics (i.e. that it is clad to look like the residential floors above rather than like a parking garage)

Parking

one space for each dwelling unit except for bonus units; no spaces required for public recreation space or any publicly accessible activity areas required in the building base so long as no individual activity area exceeds 1,000 square feet gross on Block 86, where a public park is created and the footprint of the building is less than 60% on all floors thus restricting the parking floors, the Planning Board shall give special consideration to any need for parking variances that may arise for retail and restaurant uses on the lower floors considering the availability of mass transit in the form of the nearby Light Rail station.

Sub-Area 1: Blocks 74 Lots 3-20

Block 74 Lots 3-20 and the surrounding rights of way shall be regulated according to the Plan but utilizing the use, bulk, density and parking requirements articulated for the R-3 zoning district. All other applicable standards (such as façade, signage, etc.), as set forth in the City of Hoboken Zoning Ordinance and Municipal Code, will also apply.

SECTION TWO: REPEAL OF INCONSISTENT PROVISIONS

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

SECTION THREE: SEVERABILITY

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not effect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand not withstanding the invalidity of any part.

SECTION FOUR: EFFECTIVE DATE

This Ordinance shall take effect upon passage and publication as provided by law.

SECTION FIVE: CODIFICATION

This ordinance shall be a part of the Code of the City of Hoboken as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Code.

The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Hoboken in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

Date of Introduction: November 18, 2013

Approved:

Approved as to Legal Form:

Quentin Wiest, Business Administrator

Mellissa Longo, Corporation Counsel

RECORD OF COUNCIL VOTE ON 1 ST READING				
Councilperson	Yea	Nay	Abstain	No Vote
Councilman Bhalla	/			
Councilwoman Castellano	/			
Councilwoman Giattino	/			
Councilwoman Mason	/			
Councilman Mello	/			
Councilman Occhipinti	/			
Councilman Russo	/			
President Cunningham	/			

RECORD OF COUNCIL VOTE ON 2 ND READING				
Councilperson	Yea	Nay	Abstain	No Vote
Councilman Bhalla				
Councilwoman Castellano				
Councilwoman Giattino				
Councilwoman Mason				
Councilman Mello				
Councilman Occhipinti				
Councilman Russo				
President Cunningham				

I do hereby certify that the foregoing is a true and correct copy of an ordinance duly adopted by the City Council of the City of Hoboken, in the County of Hudson on this ____ day of _____, 2013

James Farina, City Clerk

Approved by the Mayor of the City of Hoboken on the ____ day of _____, 2013.

Dawn Zimmer, Mayor

-or-

Vetoed by the Mayor for the following reasons:

CITY OF HOBOKEN
Hoboken Planning Board

Vice Chairman
Gary Holtzman
Planning Board Secretary
Patricia Carcone



DAWN ZIMMER
Mayor

Commissioners
Stephen Marks
Brandy Forbes
Ann Graham
Frank Magaletta
Gill Mosseri
Rami Pinchevsky
Dan Weaver
1st Alternate
Sasha Conroy
2nd Alternate
Phil Cohen

Memo

To: City Clerk
From: Patricia Carcone, Planning Board Secretary
Date: December 4, 2013
Re: December 3, 2013 Planning Board Review of Ordinance Amending the Northwest Redevelopment Plan and Appendix A of Chapter 196

The City Council, at their meeting on November 18, 2013 passed a resolution referring an ordinance amending the Northwest Redevelopment Plan and Appendix A of Chapter 196 to the Planning Board.

The Municipal Land Use Law requires that the Governing Body refer to the Planning Board all proposed development regulations, amendments, and revisions thereto so that the Planning Board can report whether the proposed revision is consistent with the Master Plan.

On December 3, 2013, the Planning Board held a public hearing and recommends that the Governing Body proceed to pass its Ordinance Amending the Northwest Redevelopment Plan and Appendix A of Chapter 196. Attached is a copy of the signed resolution.



Patricia Carcone
Planning Board Secretary

**RESOLUTION RECOMMENDING THE PASSAGE OF AN ORDINANCE
AMENDING THE NORTHWEST REDEVELOPMENT PLAN AND
APPENDIX "A" OF CHAPTER 196 OF THE CODE
OF THE CITY OF HOBOKEN**

WHEREAS, in accordance with N.J.S.A. 40:55D-62(a), the Governing Body is required to submit land use ordinances to the Planning Board for review and comment; and

WHEREAS, on November 18, 2013, the City of Hoboken City Council referred an ordinance to the Planning Board amending the Northwest Redevelopment Plan and Appendix A of Chapter 196 of the Hoboken Municipal Code to the Planning Board for review and comment, pursuant to N.J.S.A. 40A:12A-7(e); and

WHEREAS, the Hoboken Planning Board received comments from Dave Roberts, P.P., AICP, LLA, the Board's Planner dated November 26, 2013 concluded that the proposed amendment to the Northwest Redevelopment Plan includes the newly designated rehabilitation area (Block 74, Lots 3-20 and adjacent right-of-ways) while maintaining its R-3 zoning, provides for appropriate development standards for the designated area, while enabling it to be incorporated into the redevelopment agreements determined by the City Council to be in the City's best interests pursuant to Section 9 of the LRHL; and

WHEREAS, the Planning Board finds that this ordinance amendment is consistent with the Master Plan of the City of Hoboken and the objectives of the City's Rehabilitation plans; and

WHEREAS, the Board held a public hearing on said application on December 3, 2013, which was properly noticed.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the City of Hoboken, in the County of Hudson and State of New Jersey, on the 3rd day of December, 2013, upon a motion made by **Phil Cohen** and seconded by **Daniel Weaver** recommends the Governing Body proceed to pass its Ordinance Amending the Northwest Redevelopment Plan and Appendix A of Chapter 196 of the Code of the City of Hoboken.

VOTE ON ROLL CALL:

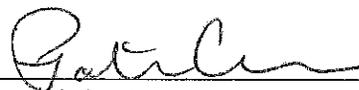
IN FAVOR: **Marks, Forbes, Magaletta, Graham, Weaver, Conroy, Cohen and Vice Chairman Holtzman**

OPPOSED: **None**

BE IT FURTHER RESOLVED, that the notice of this decision is to be published in one of the City's officially designated newspapers and that a copy of this Resolution be forwarded to Mayor Dawn Zimmer, the City Council and the City Clerk.

CERTIFICATION

It is hereby certified the attached is a true copy of the Resolution issued and adopted by the Planning Board at its regular meeting of December 3, 2013.



Patricia Carcone, Secretary
Hoboken Planning Board