

**Subject: Utilities Commission Drug-free Workplace Policy**

**1.0 Purpose**

In a commitment to promote a healthy, safe, and productive workforce and to safeguard our employees and the working environment for employees, contractors, customers, and the like, the Utilities Commission has established a Drug-free Workplace Program. This policy is implemented pursuant to the Drug-free Workplace Program requirements under F.S. §440.102 and the rules of the Department of Labor and Employment Security, Division of Workers' Compensation.

**2.0 Scope**

This policy applies to all employees and job applicants of the Utilities Commission, City of New Smyrna Beach (U.C.).

**3.0 General Policy**

The Utilities Commission strictly prohibits the illegal use, possession, sale, manufacture, or distribution of drugs, alcohol, or other controlled substances on its property. It is also a violation of UCNSB policy to report to work or to work under the influence of drugs or alcohol.

**4.0 Policy Guidelines and Procedures**

**(a) General Definitions**

**“Job applicant”** – a person who has applied for a mandatory-testing position with the U.C. and has been offered employment conditioned upon successfully passing a drug and alcohol test. This includes current U.C. employees who transfer to a mandatory-testing position.

**“Mandatory-testing position”** – for purposes of the U.C., a job assignment that requires the employee to work with heavy or dangerous machinery, to work as a safety inspector, a job that must be performed at dangerous heights, a job that requires the use of dangerous chemicals, a job that requires the regular use of a vehicle, or a job assignment in which a momentary lapse in judgment could result in injury or death to another person.

**“Alcohol”** – ethyl alcohol (ethanol). References to use of alcohol include use of a beverage, mixture, or preparation containing ethyl alcohol.

**“Drug”** – alcohol, including a distilled spirit, wine, a malt beverage, or an intoxicating liquor; an amphetamine; a cannabinoid; cocaine; phencyclidine (PCP); a hallucinogen; methaqualone; an opiate; a barbiturate; a benzodiazepine; a synthetic narcotic; a designer drug; or a metabolite of any of the substances listed in this paragraph.

**“Drug test”** or **“test”** – any chemical, biological, or physical instrumental analysis administered for the purpose of determining the presence or absence of a drug or its metabolites.

**“Prescription”** or **“non-prescription medication”** – a drug or medication obtained pursuant to a prescription or a medication that is authorized pursuant to federal or state law for general distribution and use without a prescription in the treatment of human diseases, ailments, or injuries.

**“Specimen”** – tissue, hair, or a product of the human body capable of revealing the presence of alcohol and/or drugs or their metabolites, as approved by the U.S. Department of Food and Drug Administration or the Agency for Health Care Administration.

**“Drug rehabilitation program”** – a service provider that provides confidential, timely, and expert identification, assessment, and resolution of employee drug abuse.

**“Initial drug test”** – a sensitive, rapid, and reliable procedure to identify negative and presumptive positive specimens, using an immunoassay procedure or an equivalent, or a more accurate scientifically accepted method approved by the U.S. Food and Drug Administration or the Agency for Health Care Administration as such more accurate technology becomes available in a cost-effective form.

**“Confirmed drug test”** – a second analytical procedure used to identify the presence of a specific drug or metabolite in a specimen, which test must be different in scientific principle from that of the initial test procedure and must be capable of providing requisite specificity, sensitivity, and quantitative accuracy.

**“Medical review officer”** or **“MRO”** – a licensed physician, employed or contracted with an employer, who has knowledge of substance abuse disorders, laboratory testing procedures, and chain of custody collection procedures; who verifies positive, confirmed test results, and who has the necessary medical training to interpret and evaluate an employee’s positive test result in relation to the employee’s medical history or any other relevant biomedical information.

## **(b) Types of Testing**

In accordance with F.S. §440.102, employees and job applicants, after receiving a conditional job offer, will be required to submit to the following types of testing:

**Pre-employment** – job applicants, after receiving a conditional job offer

**Reasonable suspicion** – drug and/or alcohol testing based on a belief that an employee is using or has used drugs or alcohol in violation of this policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon:

1. Observable phenomena while at work, such as direct observation of drug use or of the physical symptoms or manifestations of being under the influence of a drug or alcohol.
2. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
3. A report of drug or alcohol use, provided by a reliable and credible source.
4. Evidence that an individual has tampered with a drug test during his or her employment with the U.C.
5. Information that an employee has caused or contributed to an accident while at work.
6. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs or alcohol while working or while on U.C. premises, or while operating U.C. vehicles, machinery, or equipment.

**Random Testing** – *applies to CDL drivers and mandatory-testing positions only.* Random testing is drug or alcohol tests conducted on employees who are selected through the use of a computer-generated random sample of the U.C.’s eligible employees. The current testing laboratory will generate the selected employee list; U.C. personnel are not involved in the

random selection process. *Note: CDL drivers should refer to the U.C.'s Commercial Driver Drug-free Workplace Requirements.*

**Routine fitness-for-duty** – the U.C. will require an employee to submit to a drug and alcohol test if the test is conducted as part of a routinely scheduled employee fitness-for-duty medical examination that is part of the U.C.'s established policy or that is scheduled routinely for all members of an employment classification or group.

**Follow-up testing** – if the employee in the course of employment enters an alcohol and/or drug rehabilitation program, the U.C. will require the employee to submit to a drug and/or alcohol test as a follow-up to such program unless the employee voluntarily enters the program. In that case, the U.C. has the option not to require follow-up testing. If follow-up testing is required, it will be conducted on a quarterly, semiannual, or annual basis for up to two (2) years thereafter. The employee will not receive advance notice of the testing date(s).

**(c) Over-the-counter and prescription drugs which could alter or affect drug test results\***

The following is a list of the most common medications by brand name or common name, as well as by chemical name, which may alter or affect a drug test. This list is provided by the Agency for Health Care Administration.

Alcohol	All liquid medications containing ethyl alcohol (ethanol). Please read the label for alcohol content. As an example, Vick's Nyquil is 25% (50 proof) ethyl alcohol, Comtrex is 20% (40 proof), Contact Severe Cold Formula Night Strength is 25% (50 proof) and Listerine is 26.9% (54 proof)
Amphetamines	Obetrol, Biphedamine, Desoxyn, Dexedrine, Didrex, Ionamine, Fastine
Cannabinoids	Marinol (Dronabinol, THC)
Cocaine	Cocaine HCl topical solution (Roxanne)
Phencyclidine	Not legal by prescription
Methaqualone	Not legal by prescription
Opiates	Paregoric, Parepectolin, Donnagel PG, Morphine, Tylenol with Codeine, Emprin with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guiatuss AC, Novahistine DH, Novahistine Expectorant, dilaudid (Hydromorphone), M-S Contin and Roxanol (morphine sulfate), Percodan, Vicodin, Tussi-organidin, etc.
Barbituates	Phenobarbitol, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorinal, Fioricet, Esgic, Butisol, Mebral, Butabarbital, Butalbital, Phenrinin, Triad, etc.
Benzodiazepines	Ativan, Azene, Clonopin, dalmine, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Halcion, Paxipam, Restoril, Centrax
Methadone	Dolphine, Metadose
Propoxyphene	Darvocet, Darvon N, Dolene, etc.

*\*Due to the large number of obscure brand names and constant marketing of new products, this list cannot and is not intended to be all-inclusive*

**(d) Drugs for which a test will be conducted**

Alcohol	Booze, drink, beer, wine, liquor, medications containing ethyl alcohol (ethanol),
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	<i>i.e. Vick's Nyquil, Comtrex, Listerine</i>
Amphetamines	Obetrol, Biphetamine, Desoxyn, Dexedrine, Didrex, Ionamine, Fastine, speed
Cannabinoids	Marinol (Dronabinol, THC), marijuana, hashish, hash, hash oil, pot, joint, roach, spliff, grass, weed, reefer, hemp products, hemp oil
Cocaine	Cocaine HCl topical solution (Roxanne), coke, blow, nose candy, snow, flake, crack
Phencyclidine	Not legal by prescription; PCP angel dust, hog
Methaqualone	Not legal by prescription
Opiates	Paregoric, Parepectolin, Donnagel PG, Morphine, Tylenol with Codeine, Emprin with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guiatuss AC, Novahistine DH, Novahistine Expectorant, dilaudid (Hydromorphone), M-S Contin and Roxanol (morphine sulfate), Percodan, Vicodin, Tussi-organidin, etc.; opium, dover's powder, paregoric, parepectolin, heroin, codeine, morphine, expanded opiate panel
Barbituates	Phenobarbitol, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorinal, Fioricet, Esgic, Butisol, Mebral, Butabarbital, Butalbital, Phenrinin, Triad, etc.
Benzodiazepines	Ativan, Azene, Clonopin, dalmine, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Halcion, Paxipam, Restoril, Centrax
Methadone	Dolphine, Metadose, Ecstasy
Propoxyphene	Darvocet, Darvon N, Dolene, etc.

### (e) Prescription and Non-prescription Medications

Prescription and non-prescription (over-the-counter) drugs may also affect the safety of the employee, fellow employees, and members of the public. Therefore, any employee who is taking any prescription or non-prescription medication which might reasonably be determined to impair the employee's safety, performance, or any motor functions must advise his or her supervisor before reporting to work under such medication. **Employees should only disclose the actual or possible side-effects of the medication and should not identify the medication(s) being used or the reason for its use. Supervisors are prohibited from inquiring as to the type of medication being used or the reason for its use.** The U.C. may change the employee's job assignment during any period of time where a medical determination has been made that the employee's use of a prescribed medication poses a direct threat to his or her safety or the safety of another employee or a member of the public. If there is not an available job reassignment, the employee may be granted leave, paid or unpaid (dependent upon available personal leave time), during the period of treatment.

No prescription drug shall be brought on U.C. premises by any person other than the person for whom the drug is prescribed by a licensed medical practitioner, and shall be used only in the manner, combination, and quantity prescribed. Employees must keep all prescribed medicine in its original container, which identifies the drug, date of prescription, and the prescribing doctor.

### (f) Consumption of Hemp Products

The consumption of food and food products containing hemp (cannabis) may cause an employee to test positive. A test result that is positive as a result of an employee's consumption of food or food products containing or made from hemp or hemp products will be reported as a positive test and subject the employee to discipline as described in this policy.

### **(g) Reporting Procedures**

Employee and job applicants may confidentially report to the U.C.'s MRO the use of prescription or non-prescription medications both before and after being tested. Additionally, employees have the right to consult with the testing laboratory on technical information regarding prescription and non-prescription medications and their effect on a drug test result.

### **(h) Disciplinary Action**

In the case of a job applicant, UCNSB will refuse to hire any applicant that fails a pre-hire drug screen or that refuses to submit to a pre-hire drug screening, in accordance with the UCNSB Drug-free Workplace Policy.

Any UCNSB employee who is found to be in violation of this policy, including refusal to submit to a drug screen, a confirmed positive drug test, or is in possession of drugs or alcohol on U.C. property, will be subject to immediate disciplinary action, which may include immediate discharge from employment. The employee may be placed on administrative leave pending investigation.

In the case of a first time confirmed positive test the employee may be referred to the employee assistance program (EAP) for treatment and/or will be required to meet with a Substance Abuse Professional (SAP). An employee who fails to successfully complete EAP/SAP recommendations will be discharged.

An employee who holds a mandatory-testing position who is referred to the EAP and/or the SAP will be moved to a non-mandatory-testing position while participating in the program, if one is available. If such position is not available, the employee will be permitted to use available personal leave time. Once the employee's personal leave time is exhausted, the employee will be placed on leave without pay until the employee is released to return to work.

An employee who is injured in the course and scope of employment and who refuses to submit to a drug test will not only be subject to the consequences listed above, but will also forfeit eligibility for workers' compensation medical and indemnity benefits.

In accordance with F.S. §440.102, employees who are discharged or disciplined, or applicants who have received a refusal to hire in compliance with this section, shall be considered to have been discharged, disciplined, or refused to hire for cause.

### **(i) Contestability**

Any employee or job applicant who receives a positive confirmed drug test result may contest or explain the result to the U.C.'s MRO within five (5) working days after written notification of the positive test result is received. If an employee or applicant's explanation or challenge of the positive test result is deemed unsatisfactory by the MRO, the MRO will notify the U.C. The employee or applicant may submit information to the U.C. DER (designated employer representative) explaining or contesting the test results and why the results do not constitute a violation of the Company policy. If the employee or applicant's explanation or challenge is unsatisfactory, the employee/applicant will receive written notification within fifteen (15) days after receipt of the explanation or challenge, explaining as to why the explanation is unsatisfactory. A copy of the drug test report may be requested and will be made available upon request.

Any employee or job applicant whose explanation or challenge was deemed unsatisfactory has the right to appeal by undertaking an administrative challenge by filing a claim for benefits with the judge of

compensation pursuant to Chapter 440, Florida Statutes; or if no workplace injury has occurred, the person may challenge the test result in a court of competent jurisdiction.

The employee or job applicant has the responsibility of notifying the drug testing laboratory of any administrative or civil action brought pursuant to Chapter 440, Florida Statutes. The lab will maintain the specimen until the case or administrative appeal is settled.

### **Contestability – Collective Bargaining Agreement**

The UCNSB is comprised of both bargaining unit and non-bargaining unit employees. Employees whose job position falls under the bargaining unit will be held to the standards reflected in the Collective Bargaining Agreement (CBA) and have the right to appeal to the Public Employees Relations Commission (PERC).

#### **(j) Confidentiality**

In accordance with F.S. §440.102, all information, interviews, reports, statements, memoranda, and drug test results, written or otherwise, received or produced as a result of a drug-testing program are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in accordance with s. 440.102(8)(a).

#### **(k) Voluntary Notification**

All employees are encouraged to seek help for alcohol and drug related problems. The U.C. provides benefits to employees and their families to aid in the rehabilitation of alcohol and drug problems.

Employees who voluntarily seek treatment for a drug-related problem will not be discharged, disciplined, or discriminated against solely on seeking treatment -considering they have not previously tested positive for drug use or previously entered an employee assistance program or alcohol and drug rehabilitation for drug-related problems.

An employee who holds a mandatory-testing position who enters an employee assistance program, either voluntarily or involuntarily, will be assigned to a position other than a mandatory-testing position, if one is available. If there is no such position available, the employee will be placed on leave while participating in the program. The employee will be permitted to use any available personal leave time. Once personal leave time is exhausted, the employee will be placed on leave without pay until participation or treatment is complete and the employee is released to return to work.

#### **(l) Assistance and Rehabilitation**

The Utilities Commission offers its employees access to an employee assistance program. For the current plan year, the U.C.'s EAP provider is:

Standard Insurance Company  
(888) 293-6948

www.eapbda.com; User Name: **standard**; Password: **eap4u**

Additionally, the following is a list of local alcohol and drug rehabilitation programs that are considered in-network with the U.C.'s current major medical provider.

#### **Local Rehabilitation Programs**

SMA Behavioral Health Services, Inc.  
(800) 539-4228  
702 S. Ridgewood Ave.  
Daytona Beach, FL. 32114

FHCP Center  
(386) 676-7175  
1340 N. Ridgewood Ave.  
Holly Hill, FL. 32117

National Hotline Numbers

Alcohol and Drug Referral Hotline	1-800-252-6465
Alcoholics Anonymous	1-800-344-2666
Narcotics Anonymous	1-818-780-3951
National Cocaine Hotline	1-800-262-2463
National Institute of Drug Abuses, Drug Information Treatment	1-800-662-4357

**(m) Testing Facility, MRO, and DER**

**Testing Facility:** Quest Diagnostics  
**MRO:** Dr. Natalie Hartenbaum  
FirstLab  
100 Highpoint Dr. Ste 102  
Chalfont, PA. 18914  
Phone: (215) 396-5500

**Testing Facility:** EmployMed  
**MRO:** Matthew Hoffman  
1455 Dunn Ave  
Daytona Beach, FL. 32114  
Phone: (386) 425-4038

**UCNSB DER:** Britney Pitcher, Human Resources/Benefits Manager  
P.O. Box 689  
New Smyrna Beach, FL. 32170  
Phone: (386) 424-3056

**(n) Additional Information**

For additional information or assistance with this program, please contact the Human Resources/Benefits Manager.

*The content of this program does not constitute, nor should it be construed, as a promise of employment or as a contract between the Utilities Commission, City of New Smyrna Beach.*

*Employees, as a condition of employment, are required to abide by this policy.*

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