

**A SUMMARY OF ORDINANCE NO. 2010-02, ENTITLED AN
ORDINANCE ESTABLISHING A POLICY
FOR A DRUG-FREE WORKPLACE**

This Summary is prepared pursuant to KRS.83A.060(4).

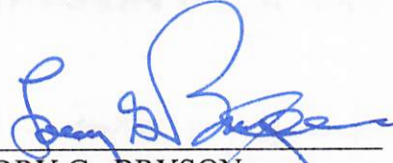
The following is intended to be a summary of Ordinance No. 2010-02 as herein above stated. This summary is prepared by Larry G. Bryson, the attorney for the City of London, Kentucky, who is authorized to practice law in the Commonwealth of Kentucky and who further states that this document is a true and correct summary of Ordinance No. 2010-02.

The Drug Free Workplace Ordinance is applicable to all regular and part time employees of the City; the stated purpose is to provide a drug free and safe work environment for the employees. There is a definition portion of the Ordinance that defines the terms as used in the Ordinance. All employees are to receive at least one (1) hour of alcohol and substance abuse education and awareness training. After that all employees receive a thirty (30) minute refresher training each year.

Job applicants and employees may be required to submit to breath alcohol testing after a conditional offer of employment following an accident or upon reasonable suspicion of prohibited alcohol use. Job applicants and employees are required to submit for urine drug testing after a conditional offer of employment when selected using a random method of selection, upon reasonable suspicion of drug use, follow up testing at least once per quarter after the employee successful completion of an employee assistance program or following an accident on the premises. "Reasonable suspicion testing" is defined in the Ordinance. The testing procedures are outlined in the Ordinance. The test results are reviewed by a medical review officer in all test circumstances and will determine, after appropriate review, which is also defined in the Ordinance whether there is a medical explanation for the unauthorized use of the alcohol or drugs and shall refer the individual tested to an assistance program or to personnel for further proceedings. The employee assistance program is defined in the Ordinance and the consequences for violation of the drug free workplace policy are defined. Violations of the drug free workplace policy may result in disciplinary action including possible termination of employment. The confidentiality of the test results are stated in the policy. The policy includes provisions for maintenance of the records, a drug free workplace statement and other information. The Ordinance is effective upon publication of the Ordinance and is in full force and effect after publication. Any Ordinance or parts of Ordinances in conflict with this Ordinance are expressly repealed and the Ordinance is effective on publication.

This summary is certified as a true and accurate summary of Ordinance No. 2010-02

by Larry G. Bryson, City Attorney for the City of London.



LARRY G. BRYSON
ATTORNEY FOR THE CITY OF LONDON

**COMMONWEALTH OF KENTUCKY
CITY OF LONDON
ORDINANCE NO. 2010-02**

**AN ORDINANCE ESTABLISHING A POLICY
FOR A DRUG-FREE WORKPLACE**

WHEREAS, the City of London adopted Ordinance No. 2010-02 entitled "An Ordinance Establishing a Policy for a Drug-Free Workplace" any portion of Ordinance # 967 inconsistent with this Ordinance is hereby repealed as if expressly stated herein.

WHEREAS, the purpose of this Ordinance is to establish a drug-free workplace policy for the City of London, Kentucky in compliance with 803 KAR 25.280, certification of drug-free workplace titled "Drug-Free Workplace Policy" is hereby entered and shall read as follows:

**BE IT THEREFORE ORDAINED BY THE CITY COUNCIL OF
THE CITY OF LONDON, KENTUCKY, AS FOLLOWS:**

1. This policy is applicable to all regular and part-time employees of the City of London.
2. The City of London, Kentucky is committed to providing a safe work environment and to fostering the well being and health of its employees. That commitment is jeopardized when any employee uses alcohol or illegal drugs on the job, comes to work under their influence, or possesses, distributes or sells drugs in the workplace. The goal of this policy is to balance respect for individual employees with the need to maintain a safe, productive and drug-free work environment. The intent of the policy is to offer assistance to those who need it, while providing clear notice that the unlawful manufacture, distribution, dispensation, possession, or use of alcohol or a controlled or illicit drug in the workplace is incompatible with employment with the City of London. Therefore, the unlawful manufacture, distribution, dispensation, possession, or use of alcohol or a controlled or illicit drug is prohibited in the workplace.
3. Violations of this Ordinance are subject to disciplinary action up to and including termination of employment.

DEFINITIONS

As used in this Ordinance:

1. "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, produced from any source or process.
2. "Consortium" means an entity, which may involve varied pools of employers and their employees, established to provide cost-effective services to employers to help the employers comply with drug-free workplace program requirements and may provide employer education, supervisor training and drug and alcohol testing at a reduced cost to the employers who choose to participate .
3. "Drug" means a controlled substance as defined in KRS 218A.010(6) and as established in 802 KAR Chapter 55, including:
 - (a) Amphetamines;

- (b) Cannabanoids/THC;
 - (c) Cocaine;
 - (d) Opiates;
 - (e) Phencyclidine (PCP);
 - (f) Benzodiazepines;
 - (g) Propoxyphene;
 - (h) Methaqualone;
 - (i) Methadone;
 - (j) Barbiturates;
 - (k) Synthetic narcotics;
 - (l) Illicit substances; and
 - (m) Volatile substances as defined in KRS 217.900(1), including any glue, cement, or paint or other substance containing a solvent or chemical having the property of releasing toxic vapors or fumes which when inhaled may cause a condition of intoxication, inebriation, stupefaction, dulling of the brain or nervous system, or distortion or disturbance of the auditory, visual, or mental processes.
4. "Drug or alcohol rehabilitation program" means a service provider that provides confidential, timely, and expert identification, assessment, treatment, and resolution of employee drug or alcohol abuse.
 5. "Drug test" or "test" means a chemical, biological, or physical instrumental analysis administered by a qualified laboratory for the purpose of determining the presence or absence of a drug or its metabolites or alcohol pursuant to standards, procedures and protocols established by the U.S. Department of Health and Human Services' Substance Abuse and Mental Health Services Administration (SAMHSA). Technical Staffing Solutions in London, KY has been hired to provide the drug testing for the City. TSS uses Clinical Reference Labs (CRL) at 8433 Quivira, Lenexa Kansas 66215 as their qualified lab.
 6. "Employee" means any person who works for salary, wages, or other remuneration for the City of London, Kentucky.
 7. "Employee Assistance Program" means an established program providing:
 - (a) Professional assessment of employee personal concerns;
 - (b) Confidential and timely services to identify employee alcohol or drug abuse;
 - (c) Referral of employees for appropriate diagnosis, treatment, and assistance with regard to employee alcohol or substance abuse; and
 - (d) Follow-up services for employees who participate in a drug or alcohol rehabilitation program and are recommended for monitoring after returning to work.
 8. "Employer" means the City of London, Kentucky.

9. "Illicit substance," as defined in KRS 351.010(m), means a prescription drug used illegally or in excess of therapeutic levels and also means an illegal drug.
10. "Medical review officer" or "MRO" means a licensed physician with knowledge of substance abuse disorders, laboratory testing, chain of custody, collection procedures, and the ability to verify positive, confirmed test results. The MRO shall possess the necessary medical training to interpret and evaluate a positive test result in relation to the person's medical history or any other relevant biomedical information. CRL uses Dr. Stephen Kracht, 7500 West 100th St. Suite 500, Overland Park, Kansas 66225 as its MRO.
11. "Qualified laboratory" means a laboratory certified in accordance with the National Laboratory Certification Program (NLCP) by the United States Department of Health and Human Services' Substance Abuse and Mental Health Services Administration (SAMHSA). Clinical Reference Laboratory is a NLCP certified lab by SAMHSA.
12. "Reasonable suspicion testing" means drug or alcohol testing that meets the requirements in Section 7 of this Ordinance.
13. "Substance" means drugs or alcohol.

EMPLOYEE AND SUPERVISOR ALCOHOL AND SUBSTANCE ABUSE EDUCATION AND AWARENESS TRAINING

1. All employees, including supervisors, shall receive at least one (1) hour of initial alcohol and substance abuse education and awareness training. Thereafter, all employees shall receive at least thirty (30) minutes of refresher training each year. All training shall include, at a minimum, information concerning:
 - (a) The dangers of alcohol and drug abuse in the workplace;
 - (b) The employer's policy of maintaining a drug-free workplace;
 - (c) The effects of alcohol and drug use on an individual's health, work and personal life;
 - (d) The disease of alcohol or drug addiction;
 - (e) Signs and symptoms of an alcohol or drug problem;
 - (f) Alcohol and drug testing;
 - (g) The role of co-workers and supervisors in addressing alcohol or drug abuse;
 - (h) Available drug counseling, rehabilitation and employee assistance programs;
 - (i) Referrals to an employee assistance program; and
 - (j) Penalties for violation of the drug-free workplace policy.
2. All supervisors shall receive, in addition to the training specified in paragraph one (1) of this subsection, at least thirty (30) minutes each year of alcohol and substance abuse education and awareness training which shall include, at a minimum, information on:

- (a) Recognizing the signs of employee alcohol or substance abuse;
 - (b) How to document signs of employee alcohol or substance abuse;
 - (c) How to refer employees to an employee assistance program or other alcohol or substance abuse treatment program; and
 - (d) Legal and practical aspects of reasonable suspicion testing for the presence of drugs and alcohol.
3. Written materials explaining the policies and procedures of the drug-free workplace program shall be provided to employees as part of the training program.
 4. The employer shall annually verify that the frequency and duration of each employee and supervisor training session meets the requirements of this section.
 5. The employer shall annually verify that all employees have participated in the required alcohol and substance abuse education and awareness training program.

BREATHE ALCOHOL AND URINE DRUG TESTING

1. Job applicants and employees may be required to submit for breath alcohol testing at the following times:
 - (a) After conditional offer of employment;
 - (b) Upon reasonable suspicion of prohibited alcohol use;
 - (c) Following an accident on the premises of the employer or injured in the course of employment for the employer that results in an injury requiring off-site medical attention or when involved in a motor vehicle accident while operating a city owned vehicle; and
 - (d) At follow-up testing at least once per quarter for one (1) year after the employee's successful completion of an employee assistance program for alcohol-related problems, or an alcohol rehabilitation program, or as recommended by the person administering the alcohol rehabilitation program.
2. Job applicants and employees shall be required to submit for urine drug testing at the following times:
 - (a) After conditional offer of employment;
 - (b) After being selected using a statistically valid, unannounced random method;
 - (c) Upon reasonable suspicion of prohibited drug use;
 - (d) At follow-up testing at least once per quarter for one (1) year after the employee's successful completion of an employee assistance program for drug-related problems, or a drug rehabilitation program, or a recommended by the person administering the drug rehabilitation program; and
 - (e) Following an accident on the premises of the employer or in the course of employment for the employer that results in an injury requiring off-site medical attention, or when involved in a motor vehicle accident while operating a city owned vehicle.

REASONABLE SUSPICION TESTING

Reasonable suspicion testing shall be based on a belief that an employee is using or has used drugs or alcohol in violation of the employer's drug-free workplace policy, drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience, training or education. objective criteria include:

1. While at work, direct observation of drug or alcohol use or of the physical symptoms or manifestations of being under the influence of a drug or alcohol;
2. While at work, abnormal conduct, erratic behavior 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 employee has tampered with a drug or alcohol test during employment with the current employer;
5. Information that an employee has caused, contributed to or been involved in an accident while at work; or
6. Evidence that an employee has used, possessed, sold, solicited or transferred illegal or illicit drugs or used alcohol while on the employer's premises or while operating the employer's vehicle, machinery or equipment.

TESTING PROCEDURES

1. All drug and alcohol testing in the drug-free workplace program shall be conducted in accordance with applicable federal and state requirements, including requirements for participation in the drug-free workplace program set forth in 803 KAR 25.280.
2. The collection of samples and administration of drug and alcohol tests shall follow all standards, procedures and protocols set forth by the U.S. Department of Health and Human Services Substance Abuse and Mental Health Administration (SAMHSA).
3. Test results will be obtained by a qualified laboratory as defined in Section 4 of this Ordinance.
4. The alcohol and drug testing program shall include the following minimum testing protocol:
 - (a) A breath alcohol concentration of 0.02 shall be the maximum acceptance level of concentration.
 - (b) An eleven (11) panel urine test that shall include testing for the following substances:
 - i. Amphetamines;
 - ii. Cannabanoids/THC
 - iii. Cocaine
 - iv. Opiates
 - v. Phencyclidine (PCP)
 - vi. Benzodiazepines;
 - viii. Propoxyphene;

- ix. Methaqualone;
- x. Methadone;
- xi. Barbiturates; and
- xii. Synthetic narcotics.

MEDICAL REVIEW OFFICER

1. All test results shall be submitted for medical review by the medical review officer (MRO), who shall consider the medical history of the job applicant or employee, as well as other relevant biomedical information.
2. If there is a positive test result, the job applicant or employee shall be given an opportunity to report to the MRO the use of any prescription or over-the-counter medication.
3. If the MRO determines there is a legitimate medical explanation for a positive test result, the MRO may certify that the test result does not indicate the unauthorized use of alcohol or drugs.
4. If the MRO determines, after appropriate review, there is not a medical explanation for the positive test result other than the unauthorized use of alcohol or drugs, the MRO shall refer the individual tested to an employee assistance program or to a personnel or administrative officer for further proceedings in accordance with the employer's drug-free workplace program.
5. Determinations concerning the use of alcohol or a controlled or illicit substance shall comply with all procedures outlined in the U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA) "Medical Review Officer Manual for Federal Agency Workplace Drug Testing Programs".

EMPLOYEE ASSISTANCE PROGRAM

1. The drug-free workplace program shall include an Employee Assistance Program (EAP) for employees and supervisory personnel as defined in Section 4 of this Ordinance.
2. The Employee Assistance Program may be provided as part of the employer's personnel services, by an entity with which the employer contracts that provides EAP services or by participation in a consortium as defined in Section 4 of this Ordinance.
3. The Employee Assistance Program shall provide services regardless of race, color, religion, national origin, disability, sex, or age.

CONSEQUENCES FOR VIOLATION OF DRUG-FREE WORKPLACE POLICY

1. The employer shall allow all employees who receive a positive confirmed test for use of alcohol and/or drugs the opportunity to explain the test results to the appropriate Medical Review Officer prior to taking an adverse action.
2. Violation of the drug-free workplace policy may result in disciplinary action, including possible termination.

CONFIDENTIALITY OF TEST RESULTS

Records of drug or alcohol test results, written or otherwise, received by the employer shall be confidential communications and shall not be disclosed by the employer to any party unless a written release of information is signed by the employee or release is ordered by a court of competent jurisdiction or for use in any employment related discussions.

MAINTENANCE OF RECORDS

The employer shall maintain controlled access at its place of business of the following records for review by the Kentucky Labor Cabinet, Office of Workers' Claims:

1. Names and position titles of all employees and supervisory personnel trained under the drug-free workplace program; and
2. The names of all persons who presented alcohol and substance abuse training for the program.

DRUG-FREE WORKPLACE STATEMENT


Each employee shall be provided a copy of a drug-free workplace statement. The statement shall:

1. Notify employees that the unlawful manufacture, distribution, dispensation, possession or use of alcohol or a controlled or illicit substance is prohibited in the workplace;
2. Identify methods that may be used by the employer to determine if an employee has violated the prohibition; and
3. Specify actions that will be taken against employees for violation of the prohibition.
4. Each employee must acknowledge receipt and understanding of the statement as a condition of employment.

This ordinance shall be effective immediately upon its adoption by the City Council on second reading and publication in accordance with the applicable provisions of Kentucky law.

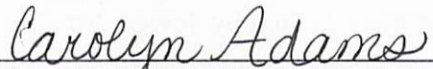
This Ordinance shall be in full force and effect upon second reading, adoption and publication according to law. Any Ordinance or parts of Ordinances in conflict herewith are hereby repealed.

Dated this the 6th day of July, 2010



MAYOR, TROY RUDDER
CITY OF LONDON, KENTUCKY

ATTESTED BY:



CAROLYN ADAMS, CITY CLERK

1ST READING DATE: June 7, 2010
2ND READING DATE: July 6, 2010
PUBLICATION DATE: July 12, 2010