

City of South Amboy Administrative Policy			
VOLUME: 1	CHAPTER: 1	# OF PAGES: 1 of 1	
SUBJECT: Policy Manual Purpose			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: The purpose of this policy manual is to define the rules and regulations that govern the workplace. In creating this manual, the City intends to provide clear guidance on all questions regarding employee rights and responsibilities.

The City acknowledges that in some instances there will be a conflict between the content of this manual and prevailing labor contracts negotiated between the City and its employees. When a conflict arises regarding the contents of this manual, deference shall always be given to prevailing Federal and/or State Law. If an issue is not addressed by law the prevailing contract shall provide the necessary guidance. In the absence of any of these aforementioned conflicts the Policy Manual shall be used to provide clear direction in workplace rules.

The City reserves the right to modify the contents of this manual to address evolving issues in the workplace, bring City Policies up to date with changes in Federal and/or State laws or regulations, or to address new circumstances in the workplace not previously identified or addressed.

City of South Amboy Administrative Policy			
VOLUME: 1	CHAPTER: 2	# OF PAGES: 1 of 1	
SUBJECT: Attendance			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: All employees are expected to be at work and ready to assume their duties at the beginning of the scheduled workday. Lateness and absence will be tolerated only in emergencies or when the supervisor gives prior approval. All absences must be reported to the supervisor and Mayor's Office prior to the start of the normal workday. The normal working hours for administrative departments are 8:30AM to 4:30PM. The working hours for other departments are established by departmental procedures and bargaining unit agreements.

City of South Amboy Administrative Policy			
VOLUME: 1	CHAPTER: 3	# OF PAGES: 1 of 2	
SUBJECT: Workplace Violence Policy			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: The City of South Amboy will not tolerate workplace violence. Violent acts or threats made by an employee against another person or property are cause for immediate dismissal and will be fully prosecuted. This includes any violence or threats made on City of South Amboy property, at City of South Amboy events or under other circumstances that may negatively affect the City of South Amboy's ability to conduct business.

Prohibited conduct includes:

1. Causing physical injury to another person;
2. Making threatening remarks;
3. Aggressive, hostile, or bullying behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress;
4. Intentionally damaging employer property or property of another employee;
5. Possession of a weapon while on City of South Amboy property or while on City of South Amboy business except with the authorization of the Police Chief; and
6. Committing acts motivated by, or related to, sexual harassment or domestic violence.

Any potentially dangerous situations must be immediately reported. The City of South Amboy will actively intervene in any potentially hostile or violent situation.

City of South Amboy Administrative Policy			
VOLUME: 1	CHAPTER: 4	# OF PAGES: 1 of 1	
SUBJECT: Breaks			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Administrative personnel are entitled to a one-hour lunch that is to be arranged by the supervisor so that offices continue to function. Other employees are entitled to a one-hour lunch break, which will be scheduled by the supervisor. Administrative personnel must arrange breaks so that offices continue to function. Breaks for other employees will be scheduled by the supervisor.

City of South Amboy Administrative Policy			
VOLUME: 1	CHAPTER: 5	# OF PAGES: 1 of 1	
SUBJECT: Dress Code			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Dress, grooming and personal hygiene must be appropriate for the position. Uniforms are required for certain jobs and are to be worn in accordance with applicable departmental standards. All other employees are required to dress in a manner that is normally acceptable in similar business establishments and consistent with applicable safety standards. Employees shall not wear suggestive attire, athletic clothing, shorts, T-shirts, novelty buttons, baseball hats and similar items of casual attire that do not present a business-like appearance. With the advance approval of the City Administrator, the City of South Amboy will make reasonable religious accommodations that do not violate safety standards. Employees violating this policy shall be required to take corrective action or will be sent home without pay.

City of South Amboy Administrative Policy			
VOLUME: 1	CHAPTER: 6	# OF PAGES: 1 of 2	
SUBJECT: Driver's License Policy			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2019		Reviewed/Revised: November 6, 2019	

POLICY: Any employee whose work requires the operation of City of South Amboy vehicles must hold a valid New Jersey State Driver's License.

All new employees who will be assigned work entailing the operating of a City of South Amboy vehicle will be subjected to a New Jersey Motor Vehicle Commission driving records check as a condition of employment. A report indicating a suspended or revoked license status may be cause to deny or terminate employment.

Periodic checks of employee's drivers' licenses through visual and formal New Jersey Motor Vehicle Commission review checks shall be made by Department Heads or Supervisors. Any employee who does not hold a valid driver's license will not be allowed to operate a City of South Amboy vehicle until such time as a valid license is obtained.

Any employee performing work which requires the operation of a City of South Amboy vehicle or who will be operating a personal vehicle to perform City of South Amboy duties must notify the immediate supervisor in those cases where a license is expired, suspended or revoked and/or who is unable to obtain an occupational permit from the State Department of Licensing. An employee that fails to report such an instance, is subject to disciplinary action, including demotion or termination. An employee who fails to immediately report such

revocation or suspension to their supervisor and continues to operate a City of South Amboy vehicle shall be subject to discipline including possible termination.

Any information obtained by the City of South Amboy in accordance with this section shall be used by the City of South Amboy only for carrying out its lawful functions and for other lawful purposes in accordance with the Driver's Privacy Protection Act (18 U.S.C. S 2721 et seq.)

City of South Amboy Administrative Policy			
VOLUME: 1	CHAPTER: 7	# OF PAGES: 1 of 2	
SUBJECT: Drug and Alcohol Policy			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: The City of South Amboy recognizes that the possession or use of unlawful drugs and the abuse of alcohol pose a threat to the health and safety of all employees. Any employee who is observed by a supervisor or department head to be intoxicated or under the influence of alcohol or drugs during working hours or is under reasonable suspicion of same shall be immediately tested and is subject to discipline up to and including termination. The supervisor or Department Head will immediately report any reasonable suspicions to the City Administrator.

An employee will be required to submit to alcohol, drug or controlled substance testing when the employee's work performance causes a reasonable suspicion that that employee is impaired due to current intoxication, drug or controlled substance use, or in cases where employment has been conditioned upon remaining alcohol, drug, or controlled dangerous substance free following treatment. Refusal to submit to testing when requested may result in immediate disciplinary action, including termination. Supervisors or Department heads that observe behavior constituting reasonable suspicion are required to institute testing and do not have the option of sending the employee home as an alternative.

The manufacturing, distribution, dispensation, possession, and use of alcohol or unlawful drugs on City of South Amboy premises or during work hours by employees is strictly prohibited.

Employees must notify their supervisor within five (5) days of conviction for a drug or alcohol related violation, whether or not the violation occurred in the workplace.

Employees who are required to maintain a Commercial Driver's License (CDL) are subject to random drug testing as required by the Federal Government.

Employees using prescription drugs that may affect job performance or safety must notify their Department Head who is required to maintain the confidentiality of any information regarding an employee's medical condition in accordance with the Health Insurance Portability and Protection Act. City of South Amboy personnel who hold a Commercial Driver's License (CDL) are subject to the provisions of the Commercial Driver's Licenses Drug and Alcohol Testing Policy. A program to assist employees who may have a drug/alcohol problem is provided through the City of South Amboy's Employee Assistance Program.

No prescription drug should be used by any person other than the individual to whom it is prescribed. Such substances or non-prescription (over the counter) drugs should be used only as prescribed or indicated. Employees are prohibited from consuming prescription drugs that are not prescribed in their name on City of South Amboy property or while performing City of South Amboy business. Soliciting or distributing prescription drugs for or to other employees is also strictly prohibited.

City of South Amboy Administrative Policy			
VOLUME: 1	CHAPTER: 7A	# OF PAGES: 1 of 2	
SUBJECT: Drug & Alcohol Testing Policy Non-DOT Drivers			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 18, 2019		Reviewed/Revised: November 6, 2019	

Under the New Jersey Drug Testing in the Workplace Acts
& the City of South Amboy Policy

DRUG AND ALCOHOL TESTING POLICY
NEW JERSEY NON-DOT

Effective Date: July 1, 2019

Designated Employer Representative (DER): Glenn R. Skarzynski

Alternate DER: Kathryn Kudelka

MRO: Harold V. McKenna MD

Contents: [New Jersey Drug-Free Workplace Policy](#)

[Drug Education Information](#)

[Substance Abuse Professionals](#)

[Employee Assistance Program](#)

[Notice to all Employees and Applicants](#)

City of South Amboy
DRUG AND ALCOHOL TESTING POLICY
NEW JERSEY NON-DOT

YOUR ROLE AND RESPONSIBILITIES

DRUG-FREE WORKPLACE

The City of South Amboy is committed to maintaining a safe, pleasant, and productive working environment. You have the right to come to work without fear of interacting with someone under the influence of drugs or alcohol. This is considered a Health & Safety Policy of the City of South Amboy. This Policy highlights the City of South Amboy's New Jersey Drug-Free Workplace Policy. The City of South Amboy's Designated Employer Representative (DER) is Glenn R. Skarzynski. The Alternative DER is Kathryn Kudelka.

The City of South Amboy recognizes the prime importance to the City of South Amboy of protecting the safety, health and welfare of its employees and others with whom we interface such as citizens, contractors and members of the public. The objective of this policy is to maintain a working environment free from the adverse effects of substance abuse. While the City of South Amboy has no intention of intruding into the private lives of its employees, the City of South Amboy does expect employees to report to work unimpaired and able to perform the duties of their job safely and effectively. In addition to absenteeism and accidents, substance abuse can adversely affect performance, productivity and workplace morale. Co-workers may feel that they have to cover up or work harder because of someone's substance abuse. Ultimately an employee with an alcohol or drugs problem may lose their job and/or suffer devastating effects on their health. The City of South Amboy has a duty to safeguard its employees and the public from the risk of harm from employees who work under the influence of alcohol and drugs. Similarly, employees who are working under the influence, and employees who know that a fellow employee is working under the influence, owe such a duty. The failure to honour that duty by taking the right steps to prevent this risk can result in legal liability. All employees and contractors are responsible and accountable for ensuring that they, and their employees, are not under the influence of alcohol or drugs when carrying out work for the City of South Amboy. Managers and supervisors are responsible for taking appropriate action where they identify individuals who are at work while under the influence of alcohol or drugs. They should also take appropriate action to protect the health and safety of individuals who may be affected.

To the extent this Policy supplements, and does not conflict with current collective bargaining agreements, it is applicable. However, to the extent this policy may conflict with a current collective bargaining agreement (CBA), the CBA shall prevail.

All testing information is considered confidential information by the City of South Amboy and will be maintained in a separate file along with the employee's medical records, separate from other personnel files. An employee has the right to inspect and obtain a copy of his or her drug test results. Drug testing information will only be released to those employees of the City of South Amboy with a job related need to know, the DER and Alternate DER, to defend against any administrative action brought by the employee against the City of South Amboy, in grievance or arbitration proceeding under the terms of a collective bargaining agreement, in a court of law under subpoena, as released by the employee in writing, the MRO, City of South Amboy insurers, rehabilitation programs and as otherwise required by law. Our Drug-Free Workplace Policy does not tolerate the abuse of drugs or alcohol in the workplace. Understand that this Policy prohibits illegal drug use on or off the job. We encourage any employee suffering from a substance abuse problem to seek help. If you need help, we can direct you to our Employee Assistance Program (EAP) Substance Abuse Professional (SAP) for a confidential evaluation and referral for substance abuse treatment if necessary. Notice of the City of South Amboy's New Jersey Drug-Free Workplace testing will be provided on vacancy announcement and is posted in conspicuous locations on City of South Amboy premises.

Our program can help improve your health and help you avoid trouble with the law. Even if you do not use drugs or alcohol, this program will make your workplace safer and more productive, the City of South Amboy safer, and will help your friends and co-workers get the help they need. Compliance with this policy is a condition of your hire or continued employment, except to the extent this policy may conflict with a current collective bargaining agreement (CBA), which CBA shall prevail. The City of South Amboy has developed its drug-free workplace policy in compliance with New Jersey Laws, *and the Fourth Amendment to the United States Constitution as it covers employees of governmental entities*. Applicant testing will begin immediately and sixty (60) days after the effective date of July 1, 2019, all employees are subject to testing as outlined below. The existing drug and alcohol testing program will remain in place until the effective date of this program.

WHO DO WE TEST?

Elected officials who are not otherwise classified as employees are not subject to testing under this Policy. All employees performing safety-sensitive functions, and all final applicants for positions where safety-sensitive functions are performed, and all other employees where reasonable suspicion exists. Reasonable suspicion shall consist of evidence or reasonable cause based on direct observation, either by a supervisor or another employee of drug or alcohol intoxication. Specific reasons include but are not limited to physical evidence of illicit substances, patterns of erratic or abnormal behavior, disorientation or confusion and/or an inability to complete routine tasks. Other observations that can cause reasonable

suspicion are odor of alcoholic beverage on the body or breath, slurred speech, and unsteady standing or walking. All Department of Transportation (DOT) regulated employees are also subject to testing under this policy. Using the criteria below, the following positions have been classified by the City of South Amboy as safety-sensitive:

SAFETY-SENSITIVE CLASSIFICATIONS

Safety-sensitive employees are those employees who discharge duties fraught with risks of injury to others that even a momentary lapse of concentration can have disastrous consequences. Factors which have been considered in determining whether a position is safety sensitive include handling of potentially dangerous machinery, sharp objects, working at heights, positions requiring a high level of cognitive function, mostly unsupervised responsibility for children, and handling of hazardous substances in an environment where others could be injured. Positions which have been found to be safety-sensitive include firefighters, emergency medical technicians, law enforcement officials who carry firearms, fire and police dispatchers, 911 operators, heavy machinery operators, forklift operators, bus drivers, some (but not all) transportation workers, pipeline operators, gas meter repairmen, jail officers, and those involved in security functions. All DOT regulated employees are determined to be safety-sensitive by those regulations. Unless an employee comes under drug testing regulations of some federal agency, each position, job classification or department, should be individually evaluated to determine whether the employee is safety-sensitive in accordance with the above guidelines. (Attach safety-sensitive job classifications on separate sheet if necessary.)

HOW DO WE TEST?

Drug and alcohol testing is done through chemical analysis which determines without question if a person has drugs or alcohol in his or her system and in conformity with regulations of the New York Department of Health, New Jersey Department of Health, or CLIA. Specimens subject to testing include urine, breath, hair, oral fluids, or blood. Specimen collections, chain of custody and drug and alcohol tests will be in substantial compliance with the U.S. Department of Transportation (DOT) procedures if applicable to the type of specimen being tested. To ensure accuracy, urine lab test procedures shall include a preliminary drug screening, two highly sophisticated scientific tests including adulterant detection, and are reported to an independent certified Medical Review Officer prior to being released to the City of South Amboy. Observed urine collections will only be conducted with the consent of the donor, and the observer will be by a person whose gender matches the donor's gender as identified by the donor at the beginning of the observed collection. Observed collections will be conducted in a professional manner that minimizes discomfort to the donor, and a medical professional may serve as the monitor, regardless of gender. The Medical Review Officer may recommend the collection of an alternate specimen (e.g., oral fluid) when a donor is unable to provide a sufficient amount of urine specimen at the collection site. The MRO will verify that chain of custody procedures were adhered to, use of a certified laboratory and that the test results were valid. The City of South Amboy provides reasonable accommodations to employees and/or

applicants in the alcohol and drug testing program whose physical condition prevents them from producing a urine specimen suitable for testing. You may contact the DER if you wish to make an accommodation request. In accordance with City of South Amboy policy, a test result reported by the laboratory as a negative dilute urine test is not considered a negative test but subjects the donor to immediate retesting; and a second negative dilute urine test will render an applicant ineligible for hire and current employees, where a negative test is required, not currently fit for duty. FDA approved on-site screening devices may be utilized with all initial positive results confirmed by laboratory testing.

All positive initial tests are confirmed by GC/MS at established DOT cut off levels. An Alcohol content of 0.04 or higher using a DOT approved alcohol screening device, or breath alcohol device, is classified as a positive test. The drugs tested for may include all or some of the following: (1) Amphetamines; (2) Cannabinoids; (3) Cocaine; (4) Phencyclidine (PCP); (5) Opioids, designer drugs, or a metabolite of any of the above substances and mind altering synthetic narcotics or designer drugs, or impairing effect medications or substances, taken by employees working in a safety-sensitive classified position, in order for the employer to fulfill its duty to provide a safe place to work as a safety rule. The term "illegal use of drugs" includes any controlled or scheduled drug not used in accordance with a health care provider's lawful prescription for the user, or any substances banned by Federal or applicable State laws.

WHAT IF YOU TEST POSITIVE?

The Medical Review Officer will contact you confidentially to give you an opportunity to discuss your results before reporting them to the City of South Amboy as a verified positive. You may discuss the result with the MRO up to seventy-two (72) hours following a positive result and ask questions of the MRO about prescription and non-prescription medications, rebut or explain the test results to the MRO, and provide supporting documentation. During this 72-hour period, any applicant or employee may request that their split specimen be tested at a second laboratory. If that second test is positive, the applicant or employee will be responsible for the expense of the second test and such cost may be deducted from their paycheck. If negative, the employee will be reimbursed by the City of South Amboy for any monies they have paid toward the cost of the test and for any lost time from their employment with the City of South Amboy. Under federal regulations, the MRO has the discretionary authority to notify the City of South Amboy that an employee is temporarily medically disqualified from the performance of safety-sensitive work during this evaluation period and also has the duty to notify the City of South Amboy if the employee is taking an impairing effect medication. A positive drug or alcohol test is classified as willful misconduct and a violation of the City of South Amboy's Policy. Any employee who tests positive, or refuses to be tested, may be subject to appropriate disciplinary action for engaging in willful misconduct connected with work, up to and including immediate termination, for gross misconduct connected with work, and violation of a safety rule for those employees working in a safety-sensitive position and may also forfeit eligibility for Worker's Compensation benefits *N.J. Stat. Ann. § 34:15-7* if such tests or refusal is associated with an accident, and may also adversely affect an employee's eligibility to receive Unemployment Compensation benefits. Any applicant made a conditional offer that tests positive, or refuses to be tested, will be denied employment or have their offer withdrawn.

WHAT IF YOU FAIL TO FOLLOW SAFETY GUIDELINES?

Often times, impairment from drugs or alcohol will cause an employee to fail to adhere to safety guidelines and other common-sense safe working practices. Failure to wear a seatbelt, failure to use City of South Amboy provided or required safety equipment, failure to follow safety guidelines, or removal (or disabling) of a safety guard will be willful misconduct connected with work, and subject the employee to discipline, up to and including discharge for violation of City of South Amboy Policy.

WHAT ABOUT IMPAIRING EFFECT MEDICATIONS OR SUBSTANCES?

Any employee working in a safety-sensitive position as defined by City of South Amboy Policy is required, as a safety rule, to pre-duty disclosure that they are taking or using ANY impairing effect prescription, including medical marijuana, over-the-counter medications, mind altering synthetic or designer drugs or other substances which may have an effect on performance of safety-sensitive duties. This includes medical and recreational Marijuana. For safety reasons, the City of South Amboy, will not be able to accommodate the use of medical and recreational marijuana by employees working in safety sensitive positions. However, for employees who are qualifying medical marijuana cardholders reporting to work in those states which have statutory anti-discrimination against the use of medical marijuana laws, qualifying employees, and applicants, may request a reasonable accommodation by contacting the DER and such request will be considered. If the fact that the employee is taking or using an impairing effect medication or substance is not disclosed pre-duty by a safety-sensitive employee and the employee tests positive, is otherwise determined to be taking or using such, or is determined by the MRO to be a potential safety risk due to taking or using an impairing effect medication or substance, that employee will be subject to discipline, up to and including termination, for violation of this safety rule. If disclosure is made, the City of South Amboy reserves the right to send the employee for a Fitness-for-Duty evaluation to evaluate the medication or substance and its effects on the performance of safety-sensitive duties. In advance of testing, employees are encouraged to have their own doctor make an individualized assessment of any safety related risks of the medications or substances which they are taking or using, providing the doctor a copy of their job description and having the doctor to render an opinion on the safety related risks. The employee need not disclose to the City of South Amboy the medication or medical condition involved to fulfill the disclosure obligation of this Policy. All information provided will be kept separate from personnel files and in a confidential manner. The MRO, or another Medical Professional selected by the City of South Amboy, will make the final determination on the safety related risks of any particular medication or substance.

WHAT IF AN ADULTERANT IS FOUND?

The use of an adulterant (something added to a specimen to attempt to hide drug use) is considered a refusal to test and a violation of the Policy. The same will be true if any employee or applicant should attempt to substitute a specimen. Any employee who is found to have violated this Policy by attempting to defraud a drug or alcohol test may be subject to appropriate disciplinary action, up to and including termination for willful misconduct connected with work, or withdrawal of a job offer. No last chance opportunity is available under such a circumstance. It is a criminal offense to substitute or adulterate a test specimen. It also is a criminal offense in New Jersey to manufacture, sell, give away, or possess any device or substance designed or commonly used to substitute or adulterate a test specimen. *N.J. Stat. Ann. § 2C:36-10*. The MRO may declare a urine specimen to be adulterated or substituted based on the laboratory report.

WHAT IF I REFUSE?

A refusal to provide a specimen for testing, unless the MRO agrees a medically valid reason exists for your inability, will be considered willful misconduct connected with work. Such willful misconduct connected with work will cause an applicant's offer to be withdrawn and will subject an employee to immediate termination for cause. Under New Jersey law, unemployment compensation benefits may not be available in such a circumstance. Failure to report for specimen collection within a reasonable time, not to exceed two (2) hours of being directed to do so, is classified as a refusal under the City of South Amboy Policy.

DRUG EDUCATIONAL INFORMATION

Attached to this Policy you will find drug educational information to assist you in recognizing the impairing effects of drug use. The City of South Amboy will conduct employee education of substance abuse and awareness and supervisor training on how to recognize signs of abuse, how to document and collaborate signs of employee substance abuse, and how to refer substance abusing employees to the EAP.

WHAT IF YOU HAVE A SUBSTANCE ABUSE PROBLEM?

The City of South Amboy will provide support for employees who need support and help with alcohol or drugs dependency via confidential Employee Assistance Program (EAP), Substance Abuse Professional (SAP) or Medical/Occupational Health support services. Employees who proactively seek treatment will be treated sympathetically and in a confidential manner. In certain cases, this may require a transfer to other duties (e.g. where a person is working in a safety critical role) while the individual is receiving treatment. However, the fact that an employee is seeking or undergoing treatment will not be a defence to a charge of wilful misconduct if the employee reports for work under the influence of alcohol or drugs or is determined to be under the influence of alcohol or drugs while at work. Our Policy encourages any

employee with a drug or alcohol problem to voluntarily and confidentially seek help through our EAP/SAP program. Coming forward after you have been notified to report for testing is not considered a voluntary report. For confidential help with a substance abuse problem, contact the DER or the EAP/SAP. Counseling and rehabilitation for alcohol or substance abuse is available through the EAP and may also be available under the health and welfare benefit program for employees, *only to the extent of the current benefits package*. The City of South Amboy will assume no direct financial responsibility for counseling or rehabilitation costs of an employee not covered by the EAP. Any costs in addition to or in excess of any available health benefits are the employee's responsibility. A list of state and national **Substance Abuse Resources** is a part of this Policy.

WHAT ABOUT A LAST CHANCE OPPORTUNITY?

No last chance opportunity is available to a probationary, part time, or temporary employee, or in the case of refusal, attempted adulteration, substitution, switching, tampering with, or diluting of a specimen or attempt to defraud a drug test. Employees who receive an EAP/SAP evaluation favorable for rehabilitation may be offered a last chance agreement which will subject the employee to unannounced follow-up testing for up to 12 months, together with other educational and counseling requirements as recommend by the EAP/SAP. A negative return to duty test is required to be placed back on active duty. A positive test, refusal or failure to comply with any term of the last chance agreement during this follow-up period will subject the employee to immediate termination.

WHY AND WHEN DO WE TEST?

- Pre-employment: Drug testing will be performed on all final applicants for safety-sensitive positions, and those who transfer into a safety-sensitive position, as a condition of their employment.
- Routine Fitness-for-Duty: Safety-sensitive employees may be required to submit to a drug test as part of a routine Fitness-for-Duty examination which may or may not be based on a particular job classification.
- Reasonable Suspicion: All employees will be required to submit to a drug and/or alcohol test if the City of South Amboy has a reasonable suspicion that an employee is under the influence of drugs or alcohol while at work. Employees selected for testing shall be suspended until a negative drug/alcohol screen or laboratory test result is received. If a negative result the employee will not suffer a loss of pay.
- Post-Accident/Incident Testing: Testing of Safety-sensitive employee may be conducted under any of the following circumstances: 1) an employee involved in an incident/accident was actively engaged in activity which could have caused or contributed to the injury or damage; or 2) the employee was operating, controlling, or repairing any machinery, tool, device, equipment or vehicle that was involved in the incident/accident, whether or not the employee himself or herself was actually involved in the accident; or 3) the employee's action or inaction was likely a contributing factor to the incident/accident or cannot be discounted as a contributing factor based on available information; or 4) testing is being conducted as part of the City of South Amboy's Post Incident/Accident Investigation related to possible

Workers' Compensation Disqualification; or 5) testing is being conducted for other non-injured employees whose actions, or inaction, could have contributed to the incident/accident as part of a root cause investigation; or 6) post-accident drug testing is required by the Workers' Compensation Carrier or Fund.

- Random: Employees in safety-sensitive positions are subject to random drug testing. Those subject to testing are randomly selected, using scientifically valid methods, from a "pool" of covered employees. Non-DOT safety-sensitive employees may be included in a Non-DOT testing "pool." DOT regulated employees will only be placed in a DOT testing "pool."
- Rehabilitation/Follow-up: An employee who has voluntarily requested rehabilitation prior to a positive drug test may be subject to unannounced drug and/or alcohol testing under a work continuation agreement, to determine whether he or she is under the influence of alcohol or drugs after successful completion of the rehabilitation program. The testing will be without notice in conjunction with a referral for treatment.

POLICY PROHIBITIONS

Employees, applicants and Contractors for the City of South Amboy are strictly prohibited from engaging in the following conduct:

1. With respect to illegal drugs, employees, applicants and contractors violate this Policy by engaging in the following conduct, whether or not during work time or on City of South Amboy premises or property and are subject to discipline up to and including discharge, or rejection of the application for employment, or cancellation of contractual agreements:
 - a. Testing positive in a confirmed drug test or refusing to be tested.
 - b. Bringing and/or storing (including in a desk, locker, automobile, or other repository) illegal drugs or drug paraphernalia or alcoholic beverage, or other intoxicants on City of South Amboy premises or property, including City of South Amboy -owned or leased vehicles, or vehicles used for City of South Amboy purposes, or in vehicles owned or used by a contractor in furtherance of work performed under a contract with the City of South Amboy.
 - c. Having possession of, being under the influence of, testing positive for, or being in close proximity to persons using illegal drugs, or otherwise having in one's system illegal drugs.
 - d. Using, consuming, transporting, distributing or attempting to distribute, manufacturing, selling, or dispensing illegal drugs. In addition, the City of South Amboy will refer such matters to the appropriate police authority.
 - e. A conviction or plea of guilty relative to any criminal drug offense occurring in the workplace. All employees must notify City of South Amboy in writing of any criminal drug conviction no later than five (5) calendar days after such conviction. Drug use off-

the-job which adversely affects an employee's performance on the job, or which has the potential to jeopardise the health or safety of other employees, the public or the City of South Amboy's equipment or function, shall be cause for disciplinary action up to and including dismissal. Action will be taken against employees who are convicted for an off-the job drug offence. In deciding what action will be taken, the incident will be evaluated in terms of the nature of the conviction, the employee's job assignment, the employee's record with the City of South Amboy and other factors related to the impact of the employee's conviction on the City of South Amboy .

- f. Abuse of prescription drugs, including exceeding the recommended prescribed dosage, or using others' prescribed medications. All prescriptions brought to work by employees of the City of South Amboy, or by contractors performing work under a contract with the City of South Amboy within the City of South Amboy must remain in the original labeled container and must show both the prescribing doctor's name and the prescription's expiration date.
 - g. Switching, tampering with, diluting, or adulterating any specimen or sample collected under this Policy, or attempting to do so.
 - h. Refusing to cooperate with the terms of this Policy which includes submitting to questioning, drug testing, medical or physical tests or examinations, when requested or conducted by City of South Amboy or its designee, is a violation of City of South Amboy Policy and may result in disciplinary action up to and including termination. A refusal to test includes conduct obstructing testing such as failure to sign necessary paperwork or failing to report to the collection site at the appointed time.
 - i. Failure to advise pre-duty the City of South Amboy of the use of a prescription or over-the-counter drug which may alter the employee's ability to safely perform the essential functions of his or her job.
 - j. Failure of an employee to notify his or her supervisor before reporting to work if he or she believes that he or she is under the influence of drugs.
 - k. We strictly prohibit employees from using hemp products, which some within the medical community have indicated may cause a positive marijuana test result. We will not generally consider use of hemp products a valid medical explanation for a positive marijuana test result.
2. With respect to alcohol, employees violate this Policy by engaging in the following conduct during work time or on City of South Amboy premises or property:
- a. Bringing and/or storing (including in a desk, locker, automobile, or other repository) alcohol on City of South Amboy premises or property, including City of South Amboy owned or leased vehicles, or vehicles used for City of South Amboy purposes.
 - b. Having possession of, being under the influence of, testing positive for or having in one's system, alcohol. Using, consuming, transporting, distributing or attempting to distribute, manufacturing, selling, or dispensing alcohol. *Exceptions to the policy concerning alcohol*

consumption or possession may be made only upon the prior explicit approval of Mayor, Business Administrator or Governing Body - for specifically identified circumstances.

- c. A conviction or plea of guilty relative to any criminal alcohol offense occurring in the workplace. All employees must notify City of South Amboy in writing of any alcohol related criminal conviction not later than five calendar days after such conviction. Alcohol use off-the-job which adversely affects an employee's performance on the job, or which has the potential to jeopardise the health or safety of other employees, the public or City of South Amboy's equipment or function, shall be cause for disciplinary action up to and including dismissal. Action may be taken against employees who are convicted for an off-the job alcohol offence. In deciding what action will be taken, the incident will be evaluated in terms of the nature of the conviction, the employee's job assignment, the employee's record with the City of South Amboy and other factors related to the impact of the employee's conviction on the City of South Amboy .
- d. Switching, tampering with, or adulterating any specimen or sample collected under this Policy, or attempting to do so.
- e. Refusing to cooperate with the terms of this Policy which includes submitting to questioning, alcohol testing, medical or physical tests or examinations, when requested or conducted by City of South Amboy or its designee, is a violation of City of South Amboy Policy and may result in disciplinary action, up to and including termination. A refusal to test includes conduct obstructing testing such as failure to sign necessary paperwork or failing to report to the collection site at the appointed time.
- f. Failure of employee to notify his or her supervisor before reporting to work if he or she believes that he or she is under the influence of alcohol.

HOW CAN YOU HELP?

- I. If you are doing drugs – STOP!
- II. If you need help – ASK!
- III. If you know someone at work who is doing drugs – TAKE ACTION!
- IV. Don't let someone else's drug or alcohol problem be the cause of an ON THE JOB INJURY!

Only with your help can we truly have a safe, pleasant, and productive environment in the City of South Amboy.

City of South Amboy

140 N. Broadway

South Amboy, NJ 08879

Phone: 732-525-5933

Fax: 732-727-0650

Substance Abuse Professionals

NATIONAL RESOURCES

A2Z Alcohol & Drug Abuse-Addiction 1-800-274-2042

Al-Anon/Alateen Family Group Headquarters..... 1-800-356-9996

Alcoholics Anonymous World Service 1-212-870-3400

American Council on Alcoholism Helpline 1-800-527-5344

800 Cocaine--An Information and Referral Hotline 1-800-262-2463

Nar-Anon Family Group Headquarters 1-310-547-5800

Narcotics Anonymous 1-818-773-9999

National Association of Alcoholism (NAADAC) 1-800-548-0497

www.naadac.org Fax: 1-800-377-1136

National Association of Addiction Treatment Professionals 1-717-581-1901

www.naatp.org

National Council on Alcoholism and Drug Dependence, Inc. 1-212-269-7797

www.ncadd.org

Hope Line (24-hour affiliate referral)..... 1-800-NCA-CALL

Center for Substance Abuse Prevention's Workplace Hotline 1-800-WORKPLACE

National Clearinghouse for Alcohol & Drug Information..... 1-800-729-6686

Center for Substance Abuse Prevention's Drug Information,

Treatment & referral Hotline 1-800-662-HELP

(Spanish-Espanol)..... 1-800-66-AYUDA

EMPLOYEE ASSISTANCE PROGRAM

BDA EAP

800-272-2727

City of South Amboy
DRUG AND ALCOHOL TESTING POLICY
NEW JERSEY NON-DOT

NOTICE TO ALL EMPLOYEES AND APPLICANTS

DRUG-FREE WORKPLACE

The City of South Amboy is committed to maintaining a safe, pleasant, and productive working environment. You have the right to come to work without fear of interacting with someone under the influence of drugs or alcohol. This Policy highlights the City of South Amboy's New Jersey Drug-Free Workplace Policy. The City of South Amboy's Designated Employer Representative (DER) is Glenn R. Skarzynski. The Alternative DER is Kathryn Kudelka

The City of South Amboy recognizes the prime importance to the City of South Amboy of protecting the safety, health and welfare of its employees and others with whom we interface such as citizens, contractors and members of the public. The objective of this policy is to maintain a working environment free from the effects of substance abuse. While the City of South Amboy has no intention of intruding into the private lives of its employees, or preventing them from taking the medicine that they may need to stay safe and healthy, the City of South Amboy does expect employees to report to work unimpaired able to perform the duties of their job safely and effectively. In addition to absenteeism and accidents, substance abuse can adversely affect performance, productivity and workplace morale. Co-workers may feel that they have to cover up or work harder because of someone's alcohol or drug use. Ultimately an employee with an alcohol or drugs problem may lose their job and/or suffer devastating effects on their health. The City of South Amboy has a duty to safeguard its employees and the public from the risk of harm from employees who work under the influence of alcohol and drugs. Similarly, employees who know that a fellow employee is working under the influence, owe a similar duty. The failure to honour that duty by taking the right steps to prevent this risk can result in legal liability.

To the extent this Policy supplements, and does not conflict with current collective bargaining agreements, it is applicable.

Notice of the City of South Amboy's New Jersey Non-DOT Drug and Alcohol testing will be provided on vacancy announcement and is posted in conspicuous locations on City of South Amboy premises.

Our program can help improve your health and help you avoid trouble with the law. Even if you do not use drugs or alcohol, this program will make your workplace safer and more productive, the City of South Amboy safer, and will help your friends and co-workers get the help they need. Compliance with this policy is a condition of your hire or continued employment. The City of South Amboy has developed its drug-free workplace policy in compliance with New Jersey Laws, *and the Fourth Amendment to the United States Constitution as it covers employees of governmental entities*. Applicant testing will begin immediately and sixty (60) days after the effective date of July 1, 2019, all employees are subject to testing as outlined below. The existing drug and alcohol testing program will remain in place until the effective date of this program.

CITY OF SOUTH AMBOY

City of South Amboy Administrative Policy			
VOLUME: 1	CHAPTER: 7B	# OF PAGES: 1 of	
SUBJECT:			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date:		Reviewed/Revised: November 6, 2019	

SECTION A - GENERAL

SECTION B - PROHIBITIONS

SECTION C - TESTS REQUIRED

SECTION D - HANDLING OF TEST RESULTS, RECORD RETENTION AND
CONFIDENTIALITY

SECTION E - CONSEQUENCES FOR DRIVERS ENGAGING IN
SUBSTANCE USE-RELATED CONDUCT

SECTION F – ALCOHOL MISUSE AND CONTROLLED SUBSTANCES USE
INFORMATION, TRAINING, AND REFERRAL

SECTION G – REQUIREMENTS AND PROCEDURES FOR
IMPLEMENTATION OF THE COMMERCIAL DRIVER’S LICENSE DRUG
AND ALCOHOL CLEARINGHOUSE

APPENDIX A - CERTIFICATE OF COMPLIANCE WITH DOT CELL-
PHONE/TEXTING BANS

SECTION A - GENERAL

This policy and 49 CFR Part 40 Regulations of the U. S. Department of Transportation Procedures For Transportation Workplace Drug And Alcohol Testing Programs and Urine Specimen Collection Guidelines, Office of Drug and Alcohol Policy and Compliance, U.S. Department of Transportation, are integral parts of this Policy and apply to all covered employees. They may be viewed at <http://www.dot.gov/odapc> Collection procedures, laboratory procedures, MRO review, alcohol testing, record keeping and all other procedural requirements shall adhere to 49 CFR Part 40.

The City of South Amboy shall test, in accordance with Federal regulations, employees required to have a Commercial Driver's License (CDL) for the use of controlled substances that violate law or Federal regulation and the misuse of alcohol.

PURPOSE 382.101

The purpose of this policy, in addition to meeting Federal regulations, is to establish a program designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles.

APPLICABILITY 382.103

(a) This policy applies to every person of The City of South Amboy who operates a commercial motor vehicle in commerce in any State, and is subject to:

- (1) The commercial driver's license requirements of part 383;
- (2) All Drivers Operating Commercial Motor Vehicles for the City of South Amboy; or
- (3) The commercial driver's license requirements of the Canadian National Safety Code.

(b) An employer who employs himself/herself as a driver must comply with both the requirements in this policy that apply to employers and the requirements in this policy that apply to drivers. An employer who employs only himself/herself as a driver shall implement a random alcohol and controlled substances testing program of two or more covered employees in the random testing selection pool.

The COVERED EMPLOYEE CERTIFICATE OF RECEIPT contains the name, address, and phone number of the responsible individual(s). The CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING POLICY complies with requirements of the Department of Transportation regulations as set forth in 49 CFR § 382 and 49 CFR Part 40. The DER shall be responsible for providing oversight and evaluation on the plan; providing guidance and counseling; reviewing of all discipline applied under this plan for consistency and conformance to human resources policies and procedures; scheduling for types of testing (random, post-accident, reasonable suspicion, etc.); maintaining a locked file system on all test results; and overseeing the referral of employees for evaluation and treatment. The City of South Amboy shall ensure that all covered employees are aware of the provisions and coverage of South Amboy's CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING POLICY and that all employees are notified prior to testing.

The City of South Amboy SERVICE AGENT CONTACT INFORMATION

DESIGNATED EMPLOYER REPRESENTATIVE (DER)

NAME: Glenn R. Skarzynski

TITLE: Business Administrator

ADDRESS: 140 N. Broadway
South Amboy, NJ 08879

PHONE: 732-525-5933

E-MAIL: BA@southamboynj.gov

HOURS WHEN AVAILABLE: 24 hours

ALTERNATE DESIGNATED EMPLOYER REPRESENTATIVE (DER)

NAME: Kathryn Kudelka

MEDICAL REVIEW OFFICER (MRO)

NAME: Harold V. McKenna MD

ADDRESS: 305 Main Street
South Amboy, NJ 08879

PHONE: 732-721-1120

FAX: 732-721-2102

LABORATORY

NAME: Dynamic Testing

ADDRESS: 230 Main Street

Suite C

Toms River, NJ 08753

SUBSTANCE ABUSE PROFESSIONAL (SAP)

NAME: Bensinger, Dupont, & Associates

ADDRESS: 134 N. Lasalle Street

Suite 2200

Chicago, IL 60602

PHONE: 800-272-2727

CONSORTIUM/THIRD PARTY ADMINISTRATOR (C/TPA)

NAME: Qual-Lynx

ADDRESS: 100 Decadon Drive

Egg Harbor Township, NJ 08234

PHONE: 609-653-8400

SOUTH AMBOY'S INDEPENDENT AUTHORITY

This CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING POLICY sets forth the requirements of 49 CFR Parts 382 and 40. Those areas of the policy that appear in italic print reflect South Amboy's independent authority to require additional provisions with regard to drug and alcohol testing procedures. To the extent the City's state specific non-DOT City Authority Policy supplements, and does not conflict with applicable DOT Regulations, and current agreements, it is to be followed. In the event that DOT Regulations are applicable to the driver's or applicant's particular situation or issue, the DOT Regulations pre-empt conflicting State Laws, South Amboy's non-DOT Policies and all other agreements.

PERIOD OF WORKDAY A DRIVER IS REQUIRED TO BE IN COMPLIANCE

Safety-Sensitive Functions as covered under 49 CFR Part 382: In accordance with 49 CFR 382 drivers who possess CDL licenses are subject to DOT regulated alcohol and drug testing at all times from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

- (1) All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
- (2) All time inspecting equipment as required by 49 CFR 392.7 and 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- (3) All time spent at the driving controls of a commercial motor vehicle in operation;
- (4) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of 49 CFR 393.76);
- (5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- (6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

A driver is required to be in compliance with this policy during that period of the workday when they are on-duty performing *safety-sensitive functions* (See *Definitions*).

DRIVER FITNESS FOR DUTY 391.11

DOT regulations provide that ***The City of South Amboy*** as a DOT regulated employer makes the final determination of who is a qualified individual to drive a commercial motor vehicle. 49 CFR § 391.11(a). ***The City of South Amboy*** shall not permit a person to drive a commercial motor vehicle unless the person meets all DOT minimum qualifications and such other more stringent qualifications and requirements relating to safety of operation and employee safety and health as it may decide in its judgment and discretion. ***The City of South Amboy*** shall use the services of independent Certified Medical Examiners, Occupational Medicine Physicians, Medical Review Officers, as well as other medical and industry professionals to make its final fitness for duty determinations.

TESTING PROCEDURES 382.105

The City of South Amboy shall ensure that all alcohol or controlled substances testing conducted under this policy complies with the procedures set forth in 49 CFR part 40. The provisions of 49 CFR part 40 that address alcohol or controlled substances testing are made applicable to The City of South Amboy by 382.105.

DEFINITIONS 382.107

Words or phrases used in this policy are defined in Sections 386.2, 390.5 and 40.3 of Federal regulations, except as provided herein.

Actual knowledge for the purpose of Section B of this policy means actual knowledge by The City of South Amboy that a driver has used alcohol or controlled substances based on **South Amboy** 's direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances or an employee's admission of alcohol or controlled substance use, except as provided in 382.121. Direct observation as used in this definition means observation of alcohol or controlled substances use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing under 382.307.

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol's including methyl and isopropyl alcohol.

Alcohol concentration (or content) means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under this policy.

Alcohol use means the drinking or swallowing of any beverage, liquid mixture, or preparation, (including any medication), containing alcohol. *[Caution: Certain brands and types of cough medicines contain alcohol.]*

CFR means Code of Federal Regulations.

Commerce means:

- (1) Any trade, traffic or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, including a place outside of the United States and
- (2) Trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in (1) of this definition.

It is the position of the Federal Motor Carrier Safety Administrator that the above section (2) language covers all municipal vehicles which fit within the "Commercial Motor Vehicle" definition below, even if that vehicle does not cross state lines.

Commercial driver's license Drug and Alcohol Clearinghouse (Clearinghouse) means the FMCSA database that subpart G of 49 CFR Part 382.701-727 requires employers and service agents to report information to and to query regarding drivers who are subject to the DOT controlled substance and alcohol testing regulations. Effective January 6, 2020, the FMCSA will establish a mandatory database and the following personal information collected and maintained under this part shall be reported to the Clearinghouse:

- (1) A verified positive, adulterated, or substituted drug test result;
- (2) An alcohol confirmation test with a concentration of 0.04 or higher;
- (3) A refusal to submit to any test required by subpart C of this part;
- (4) An employer's report of actual knowledge, as defined at § 382.107;
- (5) On duty alcohol use pursuant to § 382.205;
- (6) Pre-duty alcohol use pursuant to § 382.207;
- (7) Alcohol use following an accident pursuant to § 382.209; and
- (8) Controlled substance use pursuant to § 382.213;
- (9) A substance abuse professional (SAP as defined in § 40.3 of this title) report of the successful completion of the return-to-duty process;
- (10) A negative return-to-duty test; and
- (11) An employer's report of completion of follow-up testing.

Commercial motor vehicle means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:

- (1) Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater; or
- (2) Has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 or more pounds), whichever is greater; or
- (3) Is designed to transport 16 or more passengers, including the driver; or
- (4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 5103(b)) and which require

the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

Confirmation (or confirmatory) drug test means a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite.

Confirmation (or confirmatory) validity test means a second test performed on a urine specimen to further support a validity test result.

Confirmed drug test means a confirmation test result received by an MRO from a laboratory.

Consortium/Third party administrator (C/TPA) means a service agent that provides or coordinates one or more drug and/or alcohol testing services to DOT-regulated employers. C/TPAs typically provide or coordinate the provision of a number of such services and perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members (e.g., having a combined random testing pool). C/TPAs are not "employers" for purposes of Federal regulations.

Controlled substances mean those substances identified in 40.85. As of January 1, 2018, the drugs tested for may include all or some of the following: (1) Amphetamines; (2) Cannabinoids; (3) Cocaine; (4) Phencyclidine (PCP); and (5) Opioids.

Designated employer representative (DER) is an individual identified by The City of South Amboy as able to receive communications and test results from service agents and who is authorized to take immediate actions to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The individual must be an employee of the City of South Amboy. Service agents cannot serve as DERs.

Disabling damage means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

- (1) *Inclusions.* Damage to motor vehicles that could have been driven but would have been further damaged if so driven.
- (2) *Exclusions:*
 - i. Damage which can be remedied temporarily at the scene of the accident without special tools or parts.
 - ii. Tire disablement without other damage even if no spare tire is available.

- iii. Headlight or taillight damage.
- iv. Damage to turn signals, horn, or windshield wipers which make them inoperative.

DOT Agency means an agency (or "operating administration") of the United States Department of Transportation administering regulations requiring alcohol and/or drug testing (14 CFR parts 61, 63, 65, 121, and 135; 49 CFR parts 199, 219, 382, 653, and 654) in accordance with 49 CFR part 40.

Driver means any person who operates a commercial motor vehicle. This includes, but is not limited to: Full time, regularly employed Commercial Motor Vehicle drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors.

Employer means an entity, *including a municipal employer*, employing one or more employees (including an individual who is self-employed) that is subject to DOT agency regulations requiring compliance with this Federal regulation. The term, as used in this policy, refers to the entity responsible for overall implementation of DOT drug and alcohol program requirements, including individuals employed by the entity who take personnel actions resulting from violations of this policy and any applicable DOT agency regulations. Service agents are not employers for the purpose of Federal regulations.

Licensed medical practitioner means a person who is licensed, certified, and/or registered, in accordance with applicable Federal, State, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.

Negative return-to-duty test means a return-to-duty test with a negative drug result and/or an alcohol test with an alcohol concentration of less than 0.02, as described in § 40.305.

Performing (a safety-sensitive function) means a driver is considered to be performing a safety-sensitive function during any period in which he/she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

Positive alcohol test means an alcohol test with an alcohol concentration of greater than or equal to 0.04.

Positive rate for random drug testing means the number of verified positive results for random drug tests conducted under this part plus the number of refusals of random drug tests required by this part, divided by the total number of random drug tests results (i.e., positives, negatives, and refusals) under this part.

Refuse to submit (to an alcohol or controlled substances test) means that you as a driver:

- (a)(1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee (including an owner-operator) to appear for a test when called by C/TPA (see §40.61(a));
- (2) Fail to remain at the testing site until the testing process is complete. Provided that an employee who leaves the testing site before the testing process commences (see §40.63(c)) for a pre-employment test is not deemed to have refused to test;
- (3) Fail to provide a urine specimen for any drug test required by this part or DOT agency regulations; Provided that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences (see §40.63(c)) for a pre-employment test is not deemed to have refused to test;
- (4) In the case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of your provision of a specimen (see §§40.67(l) and 40.69(g));
- (5) Fail to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure (see §40.193(d)(2));
- (6) Fail or decline to take an additional drug test the employer or collector has directed you to take (see, for instance, Sec.40.197 (b));
- (7) Fail to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under Sec. 40.193(d). In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment. If there was no contingent offer of employment, the MRO will cancel the test; or
- (8) Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector).
- (9) For an observed collection, fail to follow the observer's instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
- (10) Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
- (11) Admit to the collector or MRO that you adulterated or substituted the specimen.
- (12) For a breath alcohol test, refusing to sign the certification at Step 2 of the ATF 40.261 (a) (3).
- (b) As an employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.
- (c) As an employee, if you refuse to take a drug test, you incur the consequences specified under DOT agency regulations for a violation of those DOT agency regulations. 40.191

Safety-sensitive function means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

- (1) All time at an employer facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
- (2) All time inspecting servicing, or conditioning any commercial motor vehicle at any time;
- (3) All time spent at the driving controls of a commercial motor vehicle in operation;
- (4) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, using a vehicle for road clearing, snow removal, trash and recycling removal, remaining in readiness to operate the vehicle, and
- (5) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Screening test (or initial test) means:

- (1) In drug testing, a test to eliminate “negative” urine specimens from further analysis or to identify a specimen that requires additional testing for the presence of drugs.
- (2) In alcohol testing, an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

Service agent means any person or entity, other than an employee of the employer, who provides services to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, BATs and STTs, laboratories, MROs, substance abuse professionals, and C/TPAs. To act as service agents, persons and organizations must meet DOT qualifications, if applicable. Service agents are not employers for purposes of this part.

Stand-down means the practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test results.

Violation rate for random alcohol testing means the number of 0.04 and above random alcohol confirmation test results conducted under this part plus the number of refusals of random alcohol tests required by this part, divided by the total number of random alcohol screening tests (including refusals) conducted under this part.

PREEMPTION OF STATE AND LOCAL LAWS 382.109

- (a) Except as provided in paragraph (b) of this section, the Federal regulation requiring this alcohol and controlled substances testing preempts any State or local law, rule, regulation, order to the extent that:
 - (1) Compliance with both the State or local requirement and the Federal regulation is not possible; or
 - (2) Compliance with the State or local requirement is an obstacle to the accomplishment and execution of any requirement of this Federal regulation.
- (b) This policy, and the Federal regulation requiring it, shall not be construed to preempt provisions of State criminal law that impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to transportation employees, South Amboy , or the general public.

OTHER REQUIREMENTS IMPOSED BY The City of South Amboy 382.111

Except as expressly provided in this policy, nothing in the Federal regulation 382 and 49 CFR part 40 shall be construed to affect the authority of South Amboy , or the rights of drivers, with respect to the use of alcohol, or the use of controlled substances, including authority and rights with respect to testing and rehabilitation. *Accordingly, the City may adopt, under its own authority, a Non-DOT drug and alcohol testing program.*

REQUIREMENT FOR NOTICE 382.113

Before performing an alcohol or controlled substances test under the Federal regulation, The City of South Amboy shall notify a driver that the alcohol or controlled substances test is required by Federal regulation. The City of South Amboy shall not falsely represent that a test is administered under Federal regulation.

STARTING DATE FOR TESTING PROGRAMS 382.115

- (a) All domestic-domiciled employers must implement the requirements of this policy the date the employer begins commercial motor vehicle operations.
- (b) All foreign-domiciled employers must implement the requirements of this policy on the date the employer begins commercial motor vehicle operations in the United States.

PUBLIC INTEREST EXCLUSION 382.117

The City of South Amboy shall not use the services of a service agent who is subject to a public interest exclusion (PIE) in accordance with 49 CFR part 40, Subpart R. *This is a service agent who has been found by the DOT to be disqualified from providing services to DOT regulated employers.*

EMPLOYEE ADMISSION OF ALCOHOL AND CONTROLLED SUBSTANCE USE 382.121

- (a) Employees who admit to alcohol misuse or controlled substances use are not subject to the referral, evaluation and treatment requirements of this policy and 49 CFR part 40, provided that:
 - (1) The admission is in accordance with South Amboy 's written voluntary self-identification program or policy that meets the requirements of paragraph (b) of this section;
 - (2) The driver does not self-identify in order to avoid testing under the requirements of this part;
 - (3) The driver makes the admission of alcohol misuse or controlled substances use prior to performing a safety sensitive function (i.e., prior to reporting for duty); and
 - (4) The driver does not perform a safety sensitive function until The City of South Amboy is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements in accordance with the self-identification program guidelines.

- (b) A qualified voluntary self-identification program or policy must contain the following elements:

It prohibits The City of South Amboy from taking adverse action against an employee making a voluntary admission of alcohol misuse or controlled substances use within the parameters of the program or policy and paragraph (a) of this section;

- (1) It must allow the employee sufficient opportunity to seek evaluation, education or treatment to establish control over the employee's drug or alcohol problem;
- (2) It must permit the employee to return to safety sensitive duties only upon successful completion of an educational or treatment program, as determined by a drug and alcohol abuse evaluation expert, i.e., employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor;
- (3) It must ensure that:
 - (i) Prior to the employee participating in a safety sensitive function, the employee shall undergo a return to duty test with a result indicating an alcohol concentration of less than 0.02; and/or
 - (ii) Prior to the employee participating in a safety sensitive function, the employee shall undergo a return to duty-controlled substance test with a verified negative test result for controlled substances use; and
- (4) It may incorporate employee monitoring and include non-DOT follow-up testing.

DRIVER IDENTIFICATION 382.123

- (a) For each alcohol test performed, the City shall provide the driver's commercial driver's license number and State of issuance in Step 1, Section B of the Alcohol Testing Form (ATF).
- (b) For each controlled substance test performed under this part, the City shall provide the following information, which must be recorded as follows:
 - (i) The driver's commercial driver's license number and State of issuance in Step 1, section C of the Federal Drug Testing Custody and Control Form (CCF).

(ii) The employer's name and other identifying information required in Step 1, section A of the ATF.

EMPLOYEE ASSISTANCE PROGRAM

South Amboy's employee assistance program (EAP) is a confidential program designed to assist in the identification and resolution of problems associated with employees impaired by alcohol or drugs, or other personal concerns that may adversely affect employee job performance.

SECTION B - PROHIBITIONS

ALCOHOL CONCENTRATION 382.201

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. If the City of South Amboy has actual knowledge that a driver has an alcohol concentration of 0.04 or greater, the driver will not be permitted to perform or continue to perform safety-sensitive functions.

ON-DUTY USE 382.205

No driver shall use alcohol while performing safety-sensitive functions. If the City of South Amboy has actual knowledge that a driver is using alcohol while performing safety-sensitive functions, that driver shall not be permitted to perform or continue to perform safety-sensitive functions.

PRE-DUTY USE 382.207

No driver shall perform safety-sensitive functions within four (4) hours after using alcohol. If the City of South Amboy has actual knowledge of a driver who has used alcohol within four (4) hours, that driver will not be permitted to perform or continue to perform safety-sensitive functions.

USE FOLLOWING AN ACCIDENT 382.209

No driver required to take a post-accident alcohol test under 382.303 shall use alcohol for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test, whichever occurs first.

REFUSAL TO SUBMIT TO A REQUIRED ALCOHOL OR CONTROLLED SUBSTANCES TEST 382.211

No driver shall refuse to submit to a post-accident alcohol or controlled substances test required under 382.303, a random alcohol or controlled substances test required under 382.305, a reasonable suspicion alcohol or controlled substances test required under 382.307, or a follow-up alcohol or controlled substances test required under 382.311. The City of South Amboy shall not permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.

DISCLOSURE OF OFF-DUTY DUI AND DRUG OFFENSE ARREST AN/OR CONVICTION 382.111

Safety Rule requiring mandatory reporting by Drivers of off – duty DUI and Drug Offense Arrest and/or Conviction. In accordance with the authority granted to the City by the DOT in 49 CFR 382.111 to imposed other requirements to prevent alcohol misuse by Drivers, it is mandatory that Drivers disclose to their supervisor by the end of the business day arrest and/or convictions for all alcohol and/or drug related offenses committed while operating any motor vehicle. This will allow the City to immediately remove from safety sensitive functions, Drivers who have engaged in off – duty unsafe behavior related to alcohol or drug misuse (which is directly related to their safety sensitive functions performed for the City) to make determinations as follows: 1) if the Driver is fit for duty; 2) if the Driver is still qualified under DOT regulations to operate a CMV for the City; 3) if the Driver is still insurable at standard rates under the City fleet policy; and 4) if the Driver can still meet the essential job functions for the position of Driver. It is an Essential Job Function of every DOT regulated Driver that they be qualified and licensed to operate a CMV without the use of a judicially ordered interlocking device, or similar device as part of a diversion or conviction for an alcohol related offence.

PRE-DUTY DISCLOSURE OF ANY IMPAIRING EFFECT MEDICATION OR SUBSTANCES 382.213

(a) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in 382.107, who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

(b) South Amboy, having actual knowledge that a driver has used a controlled substance, shall not permit the driver to perform or continue to perform a safety-sensitive function.

(c) The City of South Amboy may require a driver to inform The City of South Amboy of any therapeutic drug use.

All drivers of The City of South Amboy are required, as a safety rule and under DOT regulations, to pre-duty disclosure that they are taking ANY impairing affect therapeutic drug, prescription medication (including medical marijuana), over-the-counter medication, mind altering synthetic or designer drugs or substances which may have an effect on their ability to safely operate a commercial motor vehicle or the performance of safety-sensitive duties. It is an essential function of every driver's position at The City of South Amboy to be able to work in a constant state of alertness and in a safe manner. If the fact that the driver is taking an impairing effect drug, medication or substance is not disclosed pre-duty by a driver, and the driver tests positive or is determined by the MRO to be a potential safety risk due to a drug, medication or substance, that driver will be subject to discipline, up to and including termination for violation of this safety rule. If disclosure is made, South Amboy, in accordance with its authority under 49 CFR Part 391.11(a), reserves the right to send the driver for a Fitness-for-Duty evaluation to evaluate the medication and its possible adverse effects on the driver's ability to safely operate a commercial motor vehicle or the performance of other safety-sensitive duties. In determining whether the employee has a legally valid prescription so as to constitute a legitimate medical explanation, consistent with the Controlled Substances Act (CSA), the MRO will use the CSA standard when conducting his medical review (49 CFR Part 40.137).

In advance of the operation of a commercial motor vehicle, or the performance of other safety-sensitive duties, or testing, drivers are strongly encouraged (and mandated by DOT Regulations) to have their own doctor make an individualized assessment of any safety related risks of the drug, medication or substance which they are taking, providing the doctor a copy of their job description or specific duties, and having the doctor render an opinion on the safety related risks. The driver need not disclose to their supervisor the drug, medication or substance, or the medical condition involved, to fulfill this pre-duty disclosure obligation of this safety policy, but may do so confidentially to the DER. All information provided will be kept separate from personnel files and in a confidential manner by the DER. The MRO will make the final determination on the driver's ability to safely operate a commercial motor vehicle or the safety related risks of any particular drug, medication or substance, although The City of South Amboy shall make the final determination on whether the driver is qualified to drive/operate a commercial motor vehicle.

CONTROLLED SUBSTANCES TESTING 382.215

No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive or has adulterated or substituted a test specimen for controlled substances. South Amboy, having actual knowledge that a driver has tested positive or has adulterated or substituted a test specimen for controlled substances, shall not permit the driver to perform or continue to perform safety-sensitive functions. In accordance with 49 CFR Part 40.171, when the MRO has notified the driver that he or she has a verified positive drug test and/or refusal to test because of adulteration or substitution, the driver has 72 hours from the time of notification to request a test of the split specimen.

EMPLOYER RESPONSIBILITIES 382.217

No employer may allow, require, permit or authorize a driver to operate a commercial motor vehicle during any period in which an employer determines that a driver is not in compliance with the return-to-duty requirements in 49 CFR part 40, subpart O, after the occurrence of any of the following events:

- (a) The driver receives a positive, adulterated, or substituted drug test result conducted under part 40;
- (b) The driver receives an alcohol confirmation test result of 0.04 or higher alcohol concentration conducted under part 40;
- (c) The driver refused to submit to a test for drugs or alcohol required under § 382; or
- (d) The driver used alcohol prior to a post-accident alcohol test in violation of § 382.209.

CONSEQUENCES OF CONDUCT PROHIBITED BY SECTION B Any driver who engages in conduct prohibited by Section B of this policy will be subject to disciplinary action up to and including termination.

SECTION C - TESTS REQUIRED

TESTS REQUIRED

Required testing includes pre-employment (controlled substances required, alcohol at option of South Amboy), post-accident, random, and reasonable suspicion. Return-to-duty and follow-up-testing is also required if the City of South Amboy allows a "positive" test employee to return to a safety-sensitive function after the required evaluation by a Substance Abuse Professional and the required rehabilitation.

CITY RESERVES RIGHT TO CONDUCT NON-DOT DRUG AND ALCOHOL TESTING

In addition to drug and alcohol testing conducted by City pursuant to 49 CFR Part 40 and 49 CFR Part 382, The City reserves the independent authority to screen and/or test employees under the City's Policy including, but not limited to, laboratory testing and point of collection test (POCT) devices utilizing alternative body specimens including hair, urine and oral fluid (saliva), for the detection of illegal drugs, prescription and over-the-counter medications or substances which have an impairing affect and/or alcohol, taken by those who are considered safety-sensitive employees, as may be permitted and/or restricted by applicable state or local laws or regulations and applicable collective bargaining agreements. The term "illegal use of drugs" includes any mind altering synthetic or designer drugs as well as any controlled or scheduled substance not used in accordance with a health care provider's lawful prescription for the user. These collections will be performed in addition to, and not as a substitute for, DOT regulated tests and these urine specimens will not be poured from or taken from the same specimen collected for a DOT urine test or alcohol test [40.13] and will not be conducted using DOT forms [40.47, 40.227]. This may also include a "zero tolerance" policy for the use of drugs or alcohol.

PRE-EMPLOYMENT 382.301

(a) Prior to the first time a driver performs safety-sensitive functions for South Amboy, the driver shall undergo testing for controlled substances as a condition prior to being used, unless The City of South Amboy uses the exception in paragraph (b) of this section. The City of South Amboy shall not allow a driver, who The City of South Amboy intends to hire or use, to perform safety-sensitive functions unless The City of South Amboy has received a controlled substances test result from the MRO or C/TPA indicating a verified negative test result for that driver. *The City of South Amboy shall require a re-collection of a urine specimen on any pre-employment, return-to-duty and follow-up drug test if the result is negative-dilute. The MRO has authority to direct the re-collection be observed. If the second test result is also negative-dilute, The City of South Amboy shall accept the result as a negative test.*

(b) The City of South Amboy is not required to administer a controlled substances test required by paragraph (a) of this section if:

(1) The driver has participated in a controlled substances testing program that meets the requirements of this policy within the previous 30 days; and

(2) While participating in that program, either--

(i) Was tested for controlled substances within the past 6 months (from the date of application with South Amboy, or

(ii) Participated in the random controlled substances testing program for the previous 12 months (from the date of application with South Amboy); and

(3) The City of South Amboy ensures that no prior employer of the driver of whom The City of South Amboy has knowledge has records of a violation of this policy or the controlled substances use rule of another DOT agency within the previous six months.

(c) (1) If The City of South Amboy exercises the exception in paragraph (b) of this section, The City of South Amboy shall contact the controlled substances testing program(s) in which the driver participates or participated and shall obtain and retain from the testing program(s) the following information:

(i) Name(s) and address(es) of the program(s).

(ii) Verification that the driver participates or participated in the program(s).

(iii) Verification that the program(s) conforms to part 40 of Federal regulations.

(iv) Verification that the driver is qualified under the rules of this policy, including that the driver has not refused to be tested for controlled substances.

(v) The date the driver was last tested for controlled substances.

(vi) The results of any tests taken within the previous six months and any other violations of Section B of this policy.

(2) If the City of South Amboy who uses but does not employ a driver more than once a year to operate commercial motor vehicles must obtain the information in paragraph (c)(1) of this section at least once every six months. The records prepared under this paragraph shall be maintained in accordance with 382.401. If the City of South Amboy cannot verify that the driver is participating in a controlled substances testing program in accordance with this policy and part 40 of Federal regulations, The City of South Amboy shall conduct a pre-employment-controlled substances test.

(d) The City of South Amboy may, but is not required to, conduct pre-employment alcohol testing under this policy. If the City of South Amboy chooses to conduct pre-employment alcohol testing, it must comply with the following requirements:

(1) It must conduct a pre-employment alcohol test before the first performance of safety-sensitive functions by every covered employee (whether a new employee or someone who has transferred to a position involving the performance of safety-sensitive functions).

- (2) It must treat all safety-sensitive employees performing safety-sensitive functions the same for the purpose of pre-employment alcohol testing (i.e., it must not test some covered employees and not others).
- (3) It must conduct the pre-employment tests after making a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test.
- (4) It must conduct all pre-employment alcohol tests using the alcohol testing procedures of 49 CFR part 40 of Federal regulation.
- (5) It must not allow a covered employee to begin performing safety-sensitive functions unless the result of the employee's test indicates an alcohol concentration of less than 0.04.

POST-ACCIDENT 382.303

(a) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, The City of South Amboy shall test for alcohol for each of its surviving drivers:

- (1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
- (2) Who receives a citation within 8 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
 - (i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - (ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(b) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, The City of South Amboy shall test for controlled substances for each of its surviving drivers:

- (1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
- (2) Who receives a citation within thirty-two hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
 - (i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - (ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(c) The following table notes when a post-accident test is required to be conducted by paragraphs (a)(1), (a)(2), (b)(1), and (b)(2) of this section:

<u>Type of accident involved</u>	<u>Citation issued to the CMV driver</u>	<u>Test must be performed by South Amboy</u>
Human fatality	YES	YES
	NO	YES
Bodily injury with immediate medical treatment away from the scene	YES	YES
	NO	NO
Disabling damage to any motor vehicle requiring tow away	YES	YES
	NO	NO

(d) (1) Alcohol tests. If a test required by this section is not administered within two hours following the accident, The City of South Amboy shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by this section is not administered within eight hours following the accident, The City of South Amboy shall cease attempts to administer an alcohol test and shall prepare and maintain the same record. Records shall be submitted to the FMCSA upon request.

(2) Controlled substance tests. If a test required by this section is not administered within 32 hours following the accident, The City of South Amboy shall cease attempts to administer a controlled substance test and prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FMCSA upon request.

(e) A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by The City of South Amboy to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

(f) The City of South Amboy shall provide drivers with necessary post-accident information, procedures and instructions, prior to the driver operating a commercial motor vehicle, so that drivers will be able to comply with the requirements of this section.

(g) (1) The results of a breath or blood test for the use of alcohol, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local alcohol testing requirements, and that the results of the tests are obtained by South Amboy .

(2) The results of a urine test for the use of controlled substances, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local controlled substances testing requirements, and that the results of the tests are obtained by South Amboy .

(h) Exception. This section does not apply to:

(1) An occurrence involving only boarding or alighting from a stationary motor vehicle; or

(2) An occurrence involving only the loading or unloading of cargo; or

(3) An occurrence in the course of the operation of a passenger car or a multipurpose passenger vehicle (as defined in 571.3) by The City of South Amboy unless the motor vehicle is transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded in accordance with 177.823.

RANDOM 382.305

- (a) The City of South Amboy shall comply with the requirements of this section. Every driver shall submit to random alcohol and controlled substance testing as required in this section.
- (b) (1) Except as provided in paragraphs (c) through (e) of this section, the minimum annual percentage rate for random alcohol testing shall be 10 percent of the average number of driver positions.
- (2) Except as provided in paragraphs (f) through (h) of this section, the minimum annual percentage rate for random controlled substances testing shall be 25 percent of the average number of driver positions.
- (i) (1) The selection of drivers for random alcohol and controlled substances testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers, or other comparable identifying numbers.
- (2) Each driver selected for random alcohol and controlled substances testing under the selection process used, shall have an equal chance of being tested each time selections are made.
- (3) Each driver selected for testing shall be tested during the selection period.
- (j) (1) To calculate the total number of covered drivers eligible for random testing throughout the year, South Amboy, must add the total number of covered drivers eligible for testing during each random testing period for the year and divide that total by the number of random testing periods. Covered employees, and only covered employees, are to be in South Amboy's random testing pool, and all covered drivers must be in the random pool. If the City of South Amboy conducts random testing more often than once per month (e.g., daily, weekly, bi-weekly) The City of South Amboy does not need to compute this total number of covered drivers rate more than on a once per month basis.
- (2) The City of South Amboy may use a service agent (e.g., a C/TPA) to perform random selections and covered drivers may be part of a larger random testing pool of covered employees. However, The City of South Amboy must ensure that the service agent is testing at the appropriate percentage established for FMCSA and that only covered employees are in the random testing pool
- (k) (1) The City of South Amboy shall ensure that random alcohol and controlled substances tests conducted under this policy are unannounced.
- (2) The City of South Amboy shall ensure that the dates for administering random alcohol and controlled substances tests are spread reasonably throughout the calendar year.

(l) The City of South Amboy shall require that each driver who is notified of selection for random alcohol and/or controlled substances testing proceeds to the test site immediately; provided, however, that if the driver is performing a safety-sensitive function, other than driving a commercial motor vehicle, at the time of notification, The City of South Amboy shall instead ensure that the driver ceases to perform the safety-sensitive function and proceeds to the testing site as soon as possible.

(m) A driver shall only be tested for alcohol while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

(n) If a given driver is subject to random alcohol or controlled substances testing under the random alcohol or controlled substances testing rules of more than one DOT agency for South Amboy , the driver shall be subject to random alcohol and/or controlled substances testing at the annual percentage rate established for the calendar year by the DOT agency regulating more than 50 percent of the driver's function.

(o) If the City of South Amboy is required to conduct random alcohol or controlled substances testing under the alcohol or controlled substances testing rules of more than one DOT agency, The City of South Amboy may--

(1) Establish separate pools for random selection, with each pool containing the DOT-covered employees who are subject to testing at the same required minimum annual percentage rate; or

(2) Randomly select such employees for testing at the highest minimum annual percentage rate established for the calendar year by any DOT agency to which The City of South Amboy is subject.

REASONABLE SUSPICION 382.307

(a) The City of South Amboy shall require a driver to submit to an alcohol test when The City of South Amboy has reasonable suspicion to believe that the driver has violated the prohibitions of Section B of this policy concerning alcohol. South Amboy 's determination that reasonable suspicion exists to require the driver to undergo an alcohol test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver.

(b) The City of South Amboy shall require a driver to submit to a controlled substances test when there is reasonable suspicion to believe that the driver has violated the prohibitions of Section B of this policy concerning controlled substances. South Amboy 's determination that reasonable suspicion exists to require the driver to undergo a controlled substances test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances.

(c) The required observations for alcohol and/or controlled substances reasonable suspicion testing shall be made by a supervisor or an official of The City of South Amboy who is trained in accordance with 382.603. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the driver. *If the employee insists on driving, the proper local enforcement authority should be notified that an employee, who we believe may be under the influence of a drug or alcohol, is leaving City premises driving a motor vehicle.*

(d) Alcohol testing is authorized by DOT/FMCSA regulations only if the observations required by paragraph (a) of this section are made during, just preceding, or just after the period of the workday that the driver is required to be in compliance with the Federal regulation. A driver may be directed by The City of South Amboy to only undergo reasonable suspicion alcohol testing while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

(e) (1) If an alcohol test required by DOT/FMCSA regulations is not administered within two (2) hours following the determination under paragraph (a) of this section, The City of South Amboy shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by DOT/FMCSA regulations is not administered within eight (8) hours following the determination under paragraph (a) of this section, The City of South Amboy shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.

(2) Notwithstanding the absence of a reasonable suspicion alcohol test under DOT/FMCSA regulations, no driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while the driver is under the influence of or impaired by alcohol, as shown by the behavioral, speech, and performance indicators of alcohol misuse, nor shall The City of South Amboy permit the driver to perform or continue to perform safety-sensitive functions, until:

(i) An alcohol test is administered and the driver's alcohol concentration measures less than 0.02;
or

(ii) Twenty-four (24) hours have elapsed following the determination under paragraph (a) of this section that there is reasonable suspicion to believe that the driver has violated the prohibitions in this policy concerning the use of alcohol.

(3) Except as provided in paragraph (e)(2) of this section, The City of South Amboy shall take no action under this policy against a driver based solely on the driver's behavior and appearance, with respect to alcohol use, in the absence of an alcohol test. This does not prohibit The City of South Amboy with independent authority of DOT/FMCSA regulations from taking any action otherwise consistent with law.

(f) A written record shall be made of the observations leading to an alcohol or controlled substances reasonable suspicion test, and signed by the supervisor or an official of The City of South Amboy who made the observations, with 24 hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier.

RETURN-TO-DUTY 382.309

The requirements for return-to-duty testing must be performed in accordance with 49 CFR part 40, Subpart O, including that such tests will be collected under direct observation.

FOLLOW-UP 382.311

The requirements for follow-up testing must be performed in accordance with 49 CFR part 40, Subpart O, including that such tests will be collected under direct observation.

SECTION D - HANDLING OF TEST RESULTS, RECORD RETENTION AND CONFIDENTIALITY

RETENTION OF RECORDS 382.401

(a) General requirement. The City of South Amboy shall maintain records of its alcohol misuse and controlled substances use prevention programs as provided in this section. The records shall be maintained in a secure location with controlled access.

(b) Period of retention. The City of South Amboy shall maintain the records in accordance with the following schedule:

(1) *Five years.* The following records shall be maintained for a minimum of five years:

- (i) Records of driver alcohol test results indicating an alcohol concentration of 0.02 or greater,
- (ii) Records of driver verified positive controlled substances test results,
- (iii) Documentation of refusals to take required alcohol and/or controlled substances tests,
- (iv) Driver evaluation and referrals,
- (v) Calibration documentation,
- (vi) Records related to the administration of the alcohol and controlled substances testing programs,
- (vii) Records related to the administration of the alcohol and controlled substances testing program, including records of all driver violations, and
- (viii) A copy of each annual calendar year summary required by 382.403.

(2) *Two years.* Records related to the alcohol and controlled substances collection process (except calibration of evidential breath testing devices).

(3) *One year.* Records of negative and canceled controlled substances test results (as defined in part 40 of Federal regulations) and alcohol test results with a concentration of less than 0.02 shall be maintained for a minimum of one year.

(4) *Indefinite period.* Records related to the education and training of breath alcohol technicians, screening test technicians, supervisors, and drivers shall be maintained by The City of South Amboy

while the individual performs the functions which require the training and for two years after ceasing to perform those functions.

(c) Types of records. The following specific records shall be maintained. "Documents generated" are documents that may have to be prepared under a requirement of Federal regulations and this policy. If the record is required to be prepared, it must be maintained.

(1) Records related to the collection process:

- (i) Collection logbooks, if used,
- (ii) Documents relating to the random selection process,
- (iii) Calibration documentation for evidential breath testing devices,
- (iv) Documentation of breath alcohol technician training,
- (v) Documents generated in connection with decisions to administer reasonable suspicion alcohol or controlled substances tests,
- (vi) Documents generated in connection with decisions on post-accident tests,
- (vii) Documents verifying existence of a medical explanation of the inability of a driver to provide adequate breath or to provide a urine specimen for testing and
- (viii) A copy of each annual calendar year summary as required by 382.403.

(2) Records related to a driver's test results:

- (i) South Amboy's copy of the alcohol test form, including the results of the test,
- (ii) South Amboy's copy of the controlled substances test chain of custody and control form,
- (iii) Documents sent by the MRO to South Amboy, including those required by part 40, Subpart G,
- (iv) Documents related to the refusal of any driver to submit to an alcohol or controlled substances test required by this policy and
- (v) Documents presented by a driver to dispute the result of an alcohol or controlled substances test administered under this policy.
- (vi) Documents generated in connection with verifications of prior employers' alcohol or controlled substances test results that South Amboy:

(A) Must obtain in connection with the exception contained in 382.301 of this policy, and

(B) Must obtain as required by 382.413.

(3) Records related to other violations of this policy.

(4) Records related to evaluations:

- (i) Records pertaining to a determination by a substance abuse professional concerning a driver's need for assistance and
- (ii) Records concerning a driver's compliance with recommendations of the substance abuse professional.

(5) Records related to education and training:

- (i) Materials on alcohol misuse and controlled substances use awareness, including a copy of South Amboy's policy on alcohol misuse and controlled substances use,
- (ii) Documentation of compliance with requirements of 382.601, including the driver's signed receipt of education materials,
- (iii) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol and/or controlled substances testing based on reasonable suspicion;
- (iv) Documentation of training for breath alcohol technicians as required by 40.213(a), and
- (v) Certification that any training conducted under these Federal Regulations complies with requirements for such training.

(6) Administrative records related to alcohol and controlled substances testing:

- (i) Agreements with collection site facilities, laboratories, breath alcohol technicians, screening test technicians, medical review officers, and consortia and/or with a C/TPA,
- (ii) Names and positions of officials and their role in South Amboy's alcohol and controlled substances testing program(s),
- (iii) Semi-annual laboratory statistical summaries of urinalysis required by 40.111 (a) of Federal regulations and
- (iv) South Amboy's alcohol and controlled substances testing policy and procedures.

(d) Location of records. All records required by this policy shall be maintained as required by 390.31 and shall be made available for inspection at South Amboy's principal place of business within two business days after a request has been made by an authorized representative of the FMCSA.

REPORTING OF RESULTS IN A MANAGEMENT INFORMATION SYSTEM 382.403

(a) The City of South Amboy shall prepare and maintain a summary of the results of its alcohol and controlled substances testing programs performed under this part during the previous calendar year, when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over The City of South Amboy or any of its drivers.

(b) If The City of South Amboy is notified, during the month of January, of a request by the Federal Motor Carrier Safety Administration to report South Amboy's annual calendar year summary information, The City of South Amboy shall prepare and submit the report to the FMCSA by March 15 of that year. The City of South Amboy shall ensure that the annual summary report is accurate and received by March 15 at the location that the FMCSA specifies in its request. The City of South Amboy must use the Management Information System (MIS) form and instructions as required by 49 CFR part 40 (at Sec. 40.26 and appendix H to part 40). The City of South Amboy may also use the electronic version of the MIS form provided by the DOT. The Administrator may designate means (e.g., electronic program transmitted via the Internet), other than hard copy, for MIS form submission. For information on the electronic version of the form, see:

<http://www.fmcsa.dot.gov/safetyprogs/drugs/engtesting.htm>.

You must use the form at appendix H to this part. You may also view and download the updated (1.01.2018) instructions at the DOT's website: (<https://www.transportation.gov/odapc>). You must submit the MIS report in accordance with rule requirements (e.g., dates for submission, selection of companies required to submit, and method of reporting) established by the DOT agency regulating your operation.

(c) When the report is submitted to the FMCSA by mail or electronic transmission, the information requested shall be typed, except for the signature of the certifying official. The City of South Amboy shall ensure the accuracy and timeliness of each report submitted by The City of South Amboy or a consortium.

(d) If The City of South Amboy has a covered employee who performs multi-DOT agency functions (e.g., an employee drives a commercial motor vehicle and performs pipeline maintenance duties for South Amboy), then that employee shall be counted only on the MIS report for the DOT agency under which he or she is randomly tested. Normally, this will be the DOT agency under which the employee performs more than 50% of his or her duties. The City of South Amboy may have to explain the testing data for these employees in the event of a DOT agency inspection or audit.

(e) A service agent (e.g., Consortia/Third party administrator as defined in 49 CFR 382.107) may prepare the MIS report on behalf of South Amboy. However, a City official (e.g., Designated employer representative) must certify the accuracy and completeness of the MIS report, no matter who prepares it.

(a) Except as required by law or expressly authorized or required, The City of South Amboy shall not release driver information that is contained in records required to be maintained under 382.401.

(b) A driver is entitled, upon written request, to obtain copies of any records pertaining to the driver's use of alcohol or controlled substances, including any records pertaining to his/her alcohol or controlled substances tests. The City of South Amboy will promptly provide the records requested by the driver. Access to a driver's records shall not be contingent upon payment for records other than those specifically requested.

(c) The City of South Amboy shall permit access to all facilities utilized in complying with the requirements of this policy to the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over The City of South Amboy or any of its drivers.

(d) The City of South Amboy and each service agent who maintains records for an employer, must make available copies of all results for DOT alcohol and/or controlled substances testing conducted by the City and any other information pertaining to the City's alcohol misuse and/or controlled substances use prevention program when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over The City of South Amboy or any of its drivers.

(e) When requested by the National Transportation Safety Board as a part of a crash investigation:

(i) The City of South Amboy must disclose information related to the South Amboy's administration of a post-accident alcohol and/or a controlled substances test administered following the crash under investigation; and

(ii) FMCSA will provide access to information in the Clearinghouse (once established) concerning drivers who are involved with the crash under investigation.

(f) When requested by the National Transportation Safety Board as part of an accident investigation, The City of South Amboy shall disclose information related to South Amboy's administration of a post-accident alcohol and/or controlled substances test administered following the accident under investigation.

(g) Records shall be made available to a subsequent employer upon receipt of a written request from a driver. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the driver's request.

(h) The City of South Amboy may disclose information required to be maintained under this policy pertaining to a driver to the decision maker in a lawsuit, grievance, or administrative proceeding initiated by or on behalf of the individual, and arising from a positive DOT drug or alcohol test or a refusal to test (including, but not limited to, adulterated or substituted test results) of this policy (including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought).

(i) The City of South Amboy shall release information regarding a driver's records as directed by the specific written consent of the driver authorizing release of the information to an identified person. Release of such information by the person receiving the information is permitted only in accordance with the terms of the employee's specific written consent as outlined in 49 CFR part 40.321(b).

MEDICAL REVIEW OFFICER NOTIFICATIONS TO THE CITY OF SOUTH AMBOY 382.407

The medical review officer shall report the results of controlled substances tests to The City of South Amboy in accordance with the requirements of 49 CFR part 40, Subpart G.

MEDICAL REVIEW OFFICER RECORD RETENTION FOR CONTROLLED SUBSTANCES 382.409

(a) A medical review officer or third-party administrator shall maintain all dated records and notifications, identified by individual, for a minimum of five (5) years for verified positive controlled substances test results.

(b) A medical review officer or third-party administrator shall maintain all dated records and notifications, identified by individual, for a minimum or one (1) year for negative and canceled controlled substances test results.

(c) No person may obtain the individual controlled substances test results retained by a medical review officer (MRO as defined in § 40.3) or a consortium/third party administrator (C/TPA as defined in 382.107), and no MRO or C/TPA may release the individual controlled substances test results of any driver to any person, without first obtaining a specific, written authorization from the tested driver. Nothing in this paragraph (c) shall prohibit a MRO or a C/TPA from releasing to the employer, the Clearinghouse (once established), or to the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the controlled substances and alcohol testing program under this part, the information delineated in part 40, subpart G.

EMPLOYER NOTIFICATIONS 382.411

(a) The City of South Amboy shall notify a driver of the results of a pre-employment-controlled substances test conducted under this policy, if the driver applicant requests such results within 60 calendar days of being notified of the disposition of the employment application. The City of South Amboy shall notify a driver of the results of random, reasonable suspicion and post-accident tests for controlled substances conducted under this policy if the test results are verified positive. The City of South Amboy shall also inform the driver which controlled substance or substances were verified as positive.

(b) The designated employer representative (DER) shall make reasonable efforts to contact and request each driver who submitted a specimen under this policy, regardless of the driver's employment status, to contact and discuss the results of the controlled substances test with a medical review officer who has been unable to contact the driver.

(c) The designated employer representative (DER) shall immediately notify the medical review officer that the driver has been notified to contact the medical review officer within 24 hours.

INQUIRIES FOR ALCOHOL AND CONTROLLED SUBSTANCES INFORMATION FROM PREVIOUS EMPLOYERS 382.413

(a) The City of South Amboy must request alcohol and controlled substances information from previous employers in accordance with the requirements of § 40.25, except that the City must request information from all DOT-regulated employers that employed the driver within the previous 3 years and the scope of the information requested must date back 3 years.

(b) As of January 6, 2023, employers must use the Drug and Alcohol Clearinghouse in accordance with § 382.701(a) to comply with the requirements of § 40.25 of this title with respect to FMCSA-regulated employers. **Exception:** When an employee who is subject to follow-up testing has not successfully completed all follow-up tests, employers must request the previous employer's follow-up testing plan directly from the previous employer in accordance with § 40.25(b)(5).

(c) If an applicant was subject to an alcohol and controlled substance testing program under the requirements of a DOT Agency other than FMCSA, the City must request the alcohol and controlled substances information required under this section and § 40.25 directly from those employers regulated by a DOT Agency other than FMCSA.

NOTIFICATION TO EMPLOYERS OF A CONTROLLED SUBSTANCES OR ALCOHOL TESTING PROGRAM VIOLATION 382.415

Each person holding a commercial driver's license and subject to the DOT controlled substances and alcohol testing requirements under § 382 who has violated the alcohol and controlled substances prohibitions under part 40 or under § 382 without complying with the requirements of part 40, subpart O, must notify in writing all current employers of such violation(s). The driver is not required to provide notification to the employer that administered the test or documented the circumstances that gave rise to the violation. The notification must be made before the end of the business day following the day the employee received notice of the violation, or prior to performing any safety-sensitive function, whichever comes first.

SECTION E - CONSEQUENCES FOR DRIVERS ENGAGING IN SUBSTANCE USE-RELATED CONDUCT

REMOVAL FROM SAFETY-SENSITIVE FUNCTION 382.501

(a) Except as provided in Section F of this policy, no driver shall perform safety-sensitive functions, including driving a commercial motor vehicle, if the driver has engaged in conduct prohibited by Section B of this policy or an alcohol or controlled substances rule of another DOT agency.

(b) The City of South Amboy shall not permit any driver to perform safety-sensitive functions, including driving a commercial motor vehicle, if The City of South Amboy has determined that the driver has violated this policy.

(c) For the purposes of DOT/FMCSA regulations, commercial motor vehicle means a commercial motor vehicle in commerce as defined in 382.107 and a commercial motor vehicle in interstate commerce as defined in part 390.

REQUIRED EVALUATION AND TESTING 382.503

No driver who has engaged in conduct prohibited by Section B of this policy shall perform safety-sensitive functions, including driving a commercial motor vehicle, unless the driver has met the requirements of 49 CFR part 40, Subpart O. The City of South Amboy shall not permit a driver who has engaged in conduct prohibited by Section B of this policy to perform safety-sensitive functions, including driving a commercial motor vehicle, unless the driver has met the requirements of 49 CFR part 40, Subpart O.

OTHER ALCOHOL-RELATED CONDUCT 382.505

(a) No driver tested under the provisions of Section C of this policy who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall perform or continue to perform safety-sensitive functions for South Amboy , including driving a commercial motor vehicle, nor shall The City of South Amboy permit the driver to perform or continue to perform safety-sensitive functions, until the start of

the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test.

(b) Except as provided in paragraph (a) of this section, The City of South Amboy shall not take any action under this policy against a driver based solely on test results showing an alcohol concentration less than 0.04. This does not prohibit The City of South Amboy with authority independent of this policy from taking any action otherwise consistent with law.

The use or possession of alcoholic beverages while on South Amboy's property, or in any of South Amboy's vehicle, or on South Amboy's time, including breaks or lunch, paid or unpaid, on any shift, is strictly prohibited.

Employees who are not at work, but who could be called out are expected to be fit for duty upon reporting for work. If an employee is under the influence of alcohol, the employee must notify South Amboy's personnel when contacted. Failure to advise The City of South Amboy of alcohol consumption may result in disciplinary action. If a covered employee is perceived to be under the influence of alcohol when reporting to work after being called in, the employee's supervisor must be notified.

The supervisor must objectively observe the employee's behavior and if possible, substantiate the behavior with a second supervisor. Supervisors must have received training in alcohol and/or substance abuse detection. The supervisor must follow procedures outlined in the policy. If a determination to test for reasonable suspicion is made, the employee is immediately removed from safety-sensitive duties and the DER is contacted.

PENALTIES 382.507

The City of South Amboy and/or driver who violates the FMCSA requirements of § 382 and/or 49 CFR part 40 shall be subject to the civil and/or criminal penalty provisions of 49 U.S.C. Section 521(b).

SECTION F – ALCOHOL MISUSE AND CONTROLLED SUBSTANCES USE INFORMATION, TRAINING, AND REFERRAL

SOUTH AMBOY'S OBLIGATION TO PROMULGATE A POLICY ON THE MISUSE OF ALCOHOL AND USE OF CONTROLLED SUBSTANCES. 382.601

(a) *General requirements.* The City of South Amboy shall provide educational materials that explain the requirements of this policy and South Amboy 's policies and procedures with respect to meeting the FMCSA alcohol and drug testing requirements.

(1) The City of South Amboy shall ensure that a copy of these materials is distributed to each driver prior to the start of alcohol and controlled substances testing under this policy and to each driver subsequently hired or transferred into a position requiring driving a commercial motor vehicle.

(2) The City of South Amboy shall provide written notice to representatives of employee organizations of the availability of this information.

(b) *Required content.* The materials to be made available to drivers shall include detailed discussion of at least the following:

(1) The identity of the person designated by The City of South Amboy to answer driver questions about the materials; (*COVERED EMPLOYEE CERTIFICATE OF RECEIPT*)

(2) The categories of drivers who are subject to the provisions of this policy; (*APPLICABILITY*)

(3) Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the workday the driver is required to be in compliance with the policy; (*PERIOD OF THE WORKDAY A DRIVER IS REQUIRED TO BE IN COMPLIANCE*)

(4) Specific information concerning driver conduct that is prohibited by this policy; (*SECTION B - PROHIBITIONS*)

(5) The circumstances under which a driver will be tested for alcohol and/or controlled substances under this policy including post-accident testing under 382.303(d); (*SECTION C - TESTS REQUIRED*)

(6) The procedures that will be used to test for the presence of alcohol and controlled substances, protect the driver and the integrity of the testing process, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver, including post-accident information, procedures and instructions required by 382.303(d); (*49 CFR part 40*)

(7) The requirement that a driver submit to alcohol and controlled substances tests administered in accordance with this policy; (*REFUSAL TO SUBMIT TO A REQUIRED ALCOHOL OR CONTROLLED SUBSTANCES TEST*)

(8) An explanation of what constitutes a refusal to submit to an alcohol or controlled substances test and the attendant consequences; (*DEFINITIONS*)

(9) The consequences for drivers found to have violated Section B of this policy, including the requirement that the driver be removed immediately from safety-sensitive functions, and the procedures under 49 CFR part 40, Subpart O; (*CERTIFICATE OF RECEIPT, CONSEQUENCES OF*

PROHIBITED CONDUCT; and CONSEQUENCES OF CONDUCT PROHIBITED BY SECTION B, and SECTION E)

(10) The consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04; (*OTHER ALCOHOL-RELATED CONDUCT 382.505*)

(11) Information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem (the driver's or a coworker's); and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program and/or referral to management;

(c) The requirement that the following personal information collected and maintained under this part shall be reported to the Clearinghouse (once established):

- (1) A verified positive, adulterated, or substituted drug test result;
- (2) An alcohol confirmation test with a concentration of 0.04 or higher;
- (3) A refusal to submit to any test required by subpart C;
- (4) An employer's report of actual knowledge, as defined at § 382.107;
- (5) On-duty alcohol use pursuant to § 382.205;
- (6) Pre-duty alcohol use pursuant to § 382.207;
- (7) Alcohol use following an accident pursuant to § 382.209; and
- (8) Controlled substance use pursuant to § 382.213;
- (9) A substance abuse professional (SAP as defined in § 40.3 of this title) report of the successful completion of the return-to-duty process;
- (10) A negative return-to-duty test; and
- (11) An employer's report of completion of follow-up testing.

(d) *Optional provision.* The materials supplied to drivers may also include information on South Amboy's additional policies with respect to the use or possession of alcohol or controlled substances, including any consequences for a driver found to have a specified alcohol or controlled substances level, that are based on South Amboy's authority independent of Federal regulation. Any such additional policies or consequences must be clearly and obviously described as being based on independent authority.

(e) *Certificate of receipt.* The City of South Amboy shall ensure that each driver is required to sign a statement certifying that he/she has received a copy of these materials described in this section. The City

of South Amboy shall maintain the original of the signed certificate and may provide a copy of the certificate to the driver.

TRAINING FOR SUPERVISORS 382.603

The City of South Amboy shall ensure that all persons designated to supervise drivers receive at least 60 minutes of training on alcohol misuse and receive at least an additional 60 minutes of training on controlled substances use. The training will be used by the supervisors to determine whether reasonable suspicion exists to require a driver to undergo testing under § 382.307. The training shall include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. Recurrent training for supervisory personnel is not required.

REFERRAL, EVALUATION, AND TREATMENT 382.605

The requirements for referral, evaluation, and treatment must be performed in accordance with 49 CFR part 40, Subpart O.

SECTION G – REQUIREMENTS AND PROCEDURES FOR IMPLEMENTATION OF THE COMMERCIAL DRIVER’S LICENSE DRUG AND ALCOHOL CLEARINGHOUSE

The purpose of The City of South Amboy Policy update in advance of the Compliance Date of January 6, 2020 as mandated by § 382.601: 1) is part of the City’s efforts to meet its *Employer Obligation to Promulgate a Policy on the Misuse of Alcohol and Use of Controlled Substance*; 2) to publish educational materials to drivers about the Clearinghouse and other regulatory changes contained in the Final Rule issued December 5, 2016; and 3) to notify drivers that drug and alcohol test information will be reported to the Clearinghouse beginning January 6, 2020 so as to encourage drivers to seek substance abuse treatment if they currently have a problem with the misuse of alcohol and/or use of controlled substance(s).

DRUG AND ALCOHOL CLEARINGHOUSE 382.701

(a) Pre-employment query required.

(1) Employers must not employ a driver subject to controlled substances and alcohol testing to perform a safety-sensitive function without first conducting a pre-employment query of the Clearinghouse to obtain information about whether the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of § 382.211; or that an employer has reported actual knowledge, as defined at § 382.107, that the driver used alcohol on duty in violation of § 382.205, used alcohol before duty in violation of § 382.207, used alcohol following an accident in violation of § 382.209, or used a controlled substance, in violation of § 382.213.

(2) The City of South Amboy must conduct a full query under this section, which releases information in the Clearinghouse to an employer and requires that the individual driver give specific consent.

(b) Annual query required.

(1) The City of South Amboy must conduct a query of the Clearinghouse at least once per year for information for all employee's subject to controlled substance and alcohol testing under 382, to determine whether information exists in the Clearinghouse about those employees.

(2) In lieu of a full query, as described in paragraph (a)(2) of 382.701, The City of South Amboy may obtain the individual driver's consent to conduct a limited query to satisfy the annual query requirement in paragraph (b)(1) of this section. The limited query will tell The City of South Amboy whether there is information about the individual driver in the Clearinghouse but will not release that information to South Amboy. The individual driver may give consent to conduct limited queries that is effective for more than one year.

(3) If the limited query shows that information exists in the Clearinghouse about the individual driver, the employer must conduct a full query, in accordance with paragraph (a)(2) of 382.701, within 24 hours of conducting the limited query. If the employer fails to conduct a full query within 24 hours, the employer must not allow the driver to continue to perform any safety-sensitive function until the employer conducts the full query and the results confirm that the driver's Clearinghouse record contains no prohibitions as defined in paragraph (d) of 382.701.

(c) Employer notification. If any information described in paragraph (a) of 382.701 is entered into the Clearinghouse about a driver during the 30-day period immediately following an employer conducting a query of that driver's records, FMCSA will notify the employer.

(d) *Prohibition.* No employer may allow a driver to perform any safety-sensitive function if the results of a Clearinghouse query demonstrate that the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of § 382.211; or that an employer has reported actual knowledge, as defined at

§ 382.107, that the driver used alcohol on duty in violation of § 382.205, used alcohol before duty in violation of § 382.207, used alcohol following an accident in violation of § 382.209, or used a controlled substance in violation of § 382.213, except where a query of the Clearinghouse demonstrates:

(1) That the driver has successfully completed the SAP evaluation, referral, and education/treatment process set forth in part 40, subpart O, of this title; achieves a negative return-to-duty test result; and completes the follow-up testing plan prescribed by the SAP.

(2) That, if the driver has not completed all follow-up tests as prescribed by the SAP in accordance with § 40.307 and specified in the SAP report required by § 40.311, the driver has completed the SAP evaluation, referral, and education/treatment process set forth in part 40, subpart O, and achieves a negative return-to-duty test result, and the employer assumes the responsibility for managing the follow-up testing process associated with the testing violation.

(e) *Recordkeeping required.* Employers must retain for 3 years a record of each query and all information received in response to each query made under this section. As of January 6, 2023, an employer who maintains a valid registration fulfills this requirement.

DRIVER CONSENT TO PERMIT ACCESS TO INFORMATION IN THE CLEARINGHOUSE 382.703

(a) No employer may query the Clearinghouse to determine whether a record exists for any particular driver without first obtaining that driver's written or electronic consent. The employer conducting the search must retain the consent for 3 years from the date of the last query.

(b) Before the City of South Amboy may access information contained in the driver's Clearinghouse record, the driver must submit electronic consent through the Clearinghouse granting the employer access to the following specific records:

(1) A verified positive, adulterated, or substituted controlled substances test result;

(2) An alcohol confirmation test with a concentration of 0.04 or higher;

(3) A refusal to submit to a test in violation of § 382.211;

(4) An employer's report of actual knowledge, as defined at § 382.107, of:

(i) On duty alcohol use pursuant to § 382.205;

- (ii) Pre-duty alcohol use pursuant to § 382.207;
- (iii) Alcohol use following an accident pursuant to § 382.209; and
- (iv) Controlled substance use pursuant to § 382.213;
- (5) A SAP report of the successful completion of the return-to-duty process;
- (6) A negative return-to-duty test; and
- (7) An employer's report of completion of follow-up testing.

(c) No employer may permit a driver to perform a safety-sensitive function if the driver refuses to grant the consent required by paragraphs (a) and (b) of 382.703.

(d) A driver granting consent under 382.703 must provide consent electronically to the Agency through the Clearinghouse prior to release of information to an employer in accordance with § 382.701(a)(2) or (b)(3).

(e) A driver granting consent under this section grants consent for the Agency to release information to an employer in accordance with § 382.701(c).

REPORTING TO THE CLEARINGHOUSE 382.705

(a) *MROs.*

(1) Within 2 business days of making a determination or verification, MROs must report the following information about a driver to the Clearinghouse:

- (i) Verified positive, adulterated, or substituted controlled substances test results;
- (ii) Refusal-to-test determination by the MRO in accordance with 49 CFR 40.191(a)(5), (7), and (11), (b), and (d)(2).

(2) MROs must provide the following information for each controlled substance test result specified in paragraph (a)(1) of this section:

- (i) Reason for the test;
- (ii) Federal Drug Testing Custody and Control Form specimen ID number;
- (iii) Driver's name, date of birth, and CDL number and State of issuance;

(iv) Employer's name, address, and USDOT number, if applicable;

(v) Date of the test;

(vi) Date of the verified result; and

(vii) *Test result*. The test result must be one of the following:

(A) Positive (including the controlled substance(s) identified);

(B) Refusal to test: adulterated;

(C) Refusal to test: substituted; or

(D) Refusal to provide a sufficient specimen after the MRO makes a determination, in accordance with § 40.193 of this title, that the employee does not have a medical condition that has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of urine. Under this subpart a refusal would also include a refusal to undergo a medical examination or evaluation to substantiate a qualifying medical condition.

(3) Within 1 business day of making any change to the results report in accordance with paragraph (a)(1) of this section, a MRO must report that changed result to the Clearinghouse.

(b) Employers.

(1) Employers must report the following information about a driver to the Clearinghouse by the close of the third business day following the date on which they obtained that information:

(i) An alcohol confirmation test result with an alcohol concentration of 0.04 or greater;

(ii) A negative return-to-duty test result;

(iii) A refusal to take an alcohol test pursuant to 49 CFR 40.261;

(iv) A refusal to test determination made in accordance with 49 CFR 40.191(a)(1) through (4), (a)(6), (a)(8) through (11), or (d)(1), but in the case of a refusal to test under (a)(11), the employer may report only those admissions made to the specimen collector; and

(v) A report that the driver has successfully completed all follow-up tests as prescribed in the SAP report in accordance with §§ 40.307, 40.309, and 40.311 of this title.

(2) The information required to be reported under paragraph (b)(1) of this section must include, as applicable:

(i) Reason for the test;

(ii) Driver's name, date of birth, and CDL number and State of issuance;

(iii) Employer name, address, and USDOT number;

(iv) Date of the test;

(v) Date the result was reported; and

(vi) *Test result*. The test result must be one of the following:

(A) Negative (only required for return-to-duty tests administered in accordance with § 382.309);

(B) Positive; or

(C) Refusal to take a test.

(3) For each report of a violation of 49 CFR 40.261(a)(1) or 40.191(a)(1), the employer must report the following information:

(i) Documentation, including, but not limited to, electronic mail or other contemporaneous record of the time and date the driver was notified to appear at a testing site; and the time, date and testing site location at which the employee was directed to appear, or an affidavit providing evidence of such notification;

(ii) Documentation, including, but not limited to, electronic mail or other correspondence, or an affidavit, indicating the date the employee was terminated or resigned (if applicable);

(iii) Documentation, including, but not limited to, electronic mail or other correspondence, or an affidavit, showing that the C/TPA reporting the violation was designated as a service agent for an employer who employs himself/herself as a driver pursuant to paragraph (b)(6) of this section when the reported refusal occurred (if applicable); and

(iv) Documentation, including a certificate of service or other evidence, showing that the employer provided the employee with all documentation reported under paragraph (b)(3) of this section.

(4) Employers must report the following violations by the close of the third business day following the date on which the employer obtains actual knowledge, as defined at § 382.107, of:

(i) On-duty alcohol use pursuant to § 382.205;

(ii) Pre-duty alcohol use pursuant to § 382.207;

(iii) Alcohol use following an accident pursuant to § 382.209; and

(iv) Controlled substance use pursuant to § 382.213.

(5) For each violation in paragraph (b)(4) of this section, the employer must report the following information:

(i) Driver's name, date of birth, CDL number and State of issuance;

(ii) Employer name, address, and USDOT number, if applicable;

- (iii) Date the employer obtained actual knowledge of the violation;
- (iv) Witnesses to the violation, if any, including contact information;
- (v) Description of the violation;
- (vi) Evidence supporting each fact alleged in the description of the violation required under paragraph (b)(4) of this section, which may include, but is not limited to, affidavits, photographs, video or audio recordings, employee statements (other than admissions pursuant to § 382.121), correspondence, or other documentation; and
- (vii) A certificate of service or other evidence showing that the employer provided the employee with all information reported under paragraph (b)(4) of this section.

(6) An employer who employs himself/herself as a driver must designate a C/TPA to comply with the employer requirements in paragraph (b) of this section related to his or her own alcohol and controlled substances use.

(c) *C/TPAs*. Any employer may designate a C/TPA to perform the employer requirements in paragraph (b) of this section. Regardless of whether it uses a C/TPA to perform its requirements, the employer retains ultimate responsibility for compliance with this section. Exception: an employer does not retain responsibility where the C/TPA is designated to comply with employer requirements as described in paragraph (b)(6) of 382.705.

(d) *SAPs*.

(1) SAPs must report to the Clearinghouse for each driver who has completed the return-to-duty process in accordance with 49 CFR part 40, subpart O, the following information:

- (i) SAPs name, address, and telephone number;
- (ii) Driver's name, date of birth, and CDL number and State of issuance;
- (iii) Date of the initial substance-abuse-professional assessment; and
- (iv) Date the SAP determined that the driver demonstrated successful compliance as defined in 49 CFR part 40, subpart O, and was eligible for return-to-duty testing under 382.

(2) SAP must report the information required by paragraphs (d)(1)(i) through (iii) of this section by the close of the business day following the date of the initial substance abuse assessment, and must report the information required by paragraph (d)(1)(iv) of 382.703 by the close of the business day following the determination that the driver has completed the return-to-duty process.

(e) *Reporting truthfully and accurately.* Every person or entity with access must report truthfully and accurately to the Clearinghouse and is expressly prohibited from reporting information he or she knows or should know is false or inaccurate.

Reporting Entities and Circumstances	
Reporting Entity	When Information Will Be Reported to Clearinghouse
Prospective/Current Employer of CDL Driver	— An alcohol confirmation test with a concentration of 0.04 or higher — Refusal to test (alcohol) as specified in 49 CFR 40.261 — Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191 — Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance. — Negative return-to-duty test results (drug and alcohol testing, as applicable) — Completion of follow-up testing
Service Agent acting on behalf of Current Employer of CDL Driver	— An alcohol confirmation test with a concentration of 0.04 or higher — Refusal to test (alcohol) as specified in 49 CFR 40.261 — Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191 — Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance. — Negative return-to-duty test results (drug and alcohol testing, as applicable) — Completion of follow-up testing
MRO	— Verified positive, adulterated, or substituted drug test result — Refusal to test (drug) requiring a determination by the MRO as specified in 49 CFR 40.191
SAP	— Identification of driver and date the initial assessment was initiated — Successful completion of treatment and/or education and the determination of eligibility for return-to-duty testing

NOTICE TO DRIVERS OF ENTRY, REVISION, REMOVAL, OR RELEASE OF INFORMATION 382.707

(a) FMCSA must notify a driver when information concerning that driver has been added to, revised, or removed from the Clearinghouse.

(b) FMCSA must notify a driver when information concerning that driver has been released from the Clearinghouse to an employer and specify the reason for the release.

(c) Drivers will be notified by letter sent by U.S. Mail to the address on record with the State Driver Licensing Agency that issued the driver's commercial driver's license. Exception: A driver may provide the Clearinghouse with an alternative means or address for notification, including electronic mail.

DRIVERS' ACCESS TO INFORMATION IN THE CLEARINGHOUSE 382.709

A driver may review information in the Clearinghouse about himself or herself, except as otherwise restricted by law or regulation. A driver must register with the Clearinghouse before accessing his or her information.

CLEARINGHOUSE REGISTRATION 382.711

(a) *Clearinghouse registration required.* Each employer and service agent must register with the Clearinghouse before accessing or reporting information in the Clearinghouse.

(b) *Employers.*

(1) Employer Clearinghouse registration must include:

(i) Name, address, and telephone number;

(ii) USDOT number, except if the registrant does not have a USDOT Number, it may be requested to provide other information to verify identity; and

(iii) Name of the person(s) the employer authorizes to report information to or obtain information from the Clearinghouse and any additional information FMCSA needs to validate his or her identity.

(2) Employers must verify the names of the person(s) authorized under paragraph (b)(1)(iii) of this section annually.

(3) Identification of the C/TPA or other service agent used to comply with the requirements of this part, if applicable, and authorization for the C/TPA to query or report information to the Clearinghouse. Employers must update any changes to this information within 10 days.

(c) *MROs and SAPs.* Each MRO or SAP must provide the following to apply for Clearinghouse registration:

(1) Name, address, telephone number, and any additional information FMCSA needs to validate the applicant's identity;

- (2) A certification that the applicant's access to the Clearinghouse is conditioned on his or her compliance with the applicable qualification and/or training requirements in 49 CFR part 40; and
- (3) Evidence of required professional credentials to verify that the applicant currently meets the applicable qualification and/or training requirements in 49 CFR part 40.

(d) C/TPAs and other service agents. Each consortium/third party administrator or other service agent must provide the following to apply for Clearinghouse registration:

- (1) Name, address, telephone number, and any additional information FMCSA needs to validate the applicant's identity; and
- (2) Name, title, and telephone number of the person(s) authorized to report information to and obtain information from the Clearinghouse.
- (3) Each C/TPA or other service agent must verify the names of the person(s) authorized under paragraph (d)(2) of 382.711 annually.

DURATION, CANCELLATION, AND REVOCATION OF ACCESS 382.713

(a) *Term.* Clearinghouse registration is valid for 5 years, unless cancelled or revoked.

(b) *Cancellation.* FMCSA will cancel Clearinghouse registrations for anyone who has not queried or reported to the Clearinghouse for 2 years.

(c) *Revocation.* FMCSA has the right to revoke the Clearinghouse registration of anyone who fails to comply with any of the prescribed rights and restrictions on access to the Clearinghouse, including but not limited to, submission of inaccurate or false information and misuse or misappropriation of access rights or protected information from the Clearinghouse and failure to maintain the requisite qualifications, certifications and/or training requirements as set forth in part 40 of this title.

AUTHORIZATION TO ENTER INFORMATION INTO THE CLEARINGHOUSE 382.717

(a) *C/TPAs.* No C/TPA or other service agent may enter information into the Clearinghouse on an employer's behalf unless the employer designates the C/TPA or other service agent.

(b) *SAPs*. A driver must designate a SAP before that SAP can enter any information about the driver's return-to-duty process into the Clearinghouse.

PROCEDURES FOR CORRECTING INFORMATION IN THE DATABASE 382.17

(a) Petitions limited to inaccurately reported information.

(1) Under this section, petitioners may challenge only the accuracy of information reporting, not the accuracy of test results or refusals.

(2) *Exceptions*.

(i) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of actual knowledge that the driver received a traffic citation for driving a commercial motor vehicle while under the influence of alcohol or controlled substances if the citation did not result in a conviction. For the purposes of this section, conviction has the same meaning as used in 49 CFR part 383.

(ii) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of actual knowledge (other than as provided for in paragraph (a)(2)(i) of this section) if that report does not comply with the reporting requirements in § 382.705(b)(5).

(iii) Petitioners may request that FMCSA remove from the Clearinghouse an employer's report of a violation under 49 CFR 40.261(a)(1) or 40.191(a)(1) if that report does not comply with the reporting requirements in § 382.705(b)(3).

(b) *Petition*. Any driver or authorized representative of the driver may submit a petition to the FMCSA contesting the accuracy of information in the Clearinghouse. The petition must include:

- (1) The petitioner's name, address, telephone number, and CDL number and State of issuance;
- (2) Detailed description of the basis for the allegation that the information is not accurate; and
- (3) Evidence supporting the allegation that the information is not accurate. Failure to submit evidence is cause for dismissing the petition.

(c) *Submission of petition*. The petitioner may submit his/her petition electronically through the Clearinghouse or in writing to: Federal Motor Carrier Safety Administration, Office of Enforcement and Compliance, Attention: Drug and Alcohol Program Manager, 1200 New Jersey Avenue SE, Washington, D.C. 20590.

(d) *Notice of decision.* Within 45 days of receiving a complete petition, FMCSA will inform the driver in writing of its decision to remove, retain, or correct the information in the database and provide the basis for the decision.

(e) *Request for expedited treatment.*

(1) A driver may request expedited treatment to correct inaccurate information in his or her Clearinghouse record under paragraph (a)(1) of this section if the inaccuracy is currently preventing him or her from performing safety-sensitive functions, or to remove employer reports under paragraph (a)(2) of this section if such reports are currently preventing him or her from performing safety-sensitive functions. This request may be included in the original petition or as a separate document.

(2) If FMCSA grants expedited treatment, it will subsequently inform the driver of its decision in writing within 14 days of receipt of a complete petition.

(f) *Administrative review.*

(1) A driver may request FMCSA to conduct an administrative review if he or she believes that a decision made in accordance with paragraph (d) or (e) of this section was in error.

(2) The request must prominently state at the top of the document: “Administrative Review of Drug and Alcohol Clearinghouse Decision” and the driver may submit his/her request electronically through the Clearinghouse or in writing to the Associate Administrator for Enforcement (MC-E), Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590.

(3) The driver’s request must explain the error he or she believes FMCSA committed and provide information and/or documents to support his or her argument.

(4) FMCSA will complete its administrative review no later than 30 days after receiving the driver’s request for review. The Associate Administrator’s decision will constitute the final Agency action.

(g) *Subsequent notification to employers.* When information is corrected or removed in accordance with this section, or in accordance with 49 CFR part 10, FMCSA will notify any employer that accessed the incorrect information that a correction or removal was made.

AVAILABILITY AND REMOVAL OF INFORMATION 382.719

(a) Driver information not available. Information about a driver’s drug or alcohol violation will not be available to an employer conducting a query of the Clearinghouse after all of the following conditions relating to the violation are satisfied:

- (1) The SAP reports to the Clearinghouse the information required in § 382.705(d);
- (2) The employer reports to the Clearinghouse that the driver's return-to-duty test results are negative;
- (3) The driver's current employer reports that the driver has successfully completed all follow-up tests as prescribed in the SAP report in accordance with §§ 40.307, 40.309, and 40.311 of this title; and
- (4) Five years have passed since the date of the violation determination.

(b) Driver information remains available. Information about a particular driver's drug or alcohol violation will remain available to employers conducting a query until all requirements in paragraph (a) of this section have been met.

(c) *Exceptions.*

- (1) Within 2 business days of granting a request for removal pursuant to § 382.717(a)(2)(i), FMCSA will remove information from the Clearinghouse.
- (2) Information about a particular driver's drug or alcohol violation may be removed in accordance with § 382.717(a)(2)(ii) and (iii) or in accordance with 49 CFR part 10.

(d) *Driver information remains available.* Nothing in this part shall prevent FMCSA from using information removed under this section for research, auditing, or enforcement purposes.

FEES 382.721

FMCSA may collect a reasonable fee from entities required to query the Clearinghouse. **Exception:** No driver may be required to pay a fee to access his or her own information in the Clearinghouse.

UNAUTHORIZED ACCESS OR USE PROHIBITED 382.723

(a) Except as expressly authorized in this subpart, no person or entity may access the Clearinghouse. No person or entity may share, distribute, publish, or otherwise release any information in the Clearinghouse except as specifically authorized by law. No person may report inaccurate or misleading information to the Clearinghouse.

(b) An employer's use of information received from the Clearinghouse is limited to determining whether a prohibition applies to a driver performing a safety-sensitive function with respect to a commercial motor vehicle. No employer may divulge or permit any other person or entity to divulge any information from the Clearinghouse to any person or entity not directly involved in determining whether a prohibition applies to a driver performing a safety-sensitive function with respect to a commercial motor vehicle.

c) Violations of this section are subject to civil and criminal penalties in accordance with applicable law, including those set forth at § 382.507.

(d) Nothing in this part shall prohibit FMCSA from accessing information about individual drivers in the Clearinghouse for research, auditing, or enforcement purposes.

ACCESS BY STATE LICENSING AUTHORITIES 382.725

(a) In order to determine whether a driver is qualified to operate a commercial motor vehicle, the chief commercial driver's licensing official of a State must obtain the driver's record from the Clearinghouse if the driver has applied for a commercial driver's license from that State.

(b) By applying for a commercial driver's license, a driver is deemed to have consented to the release of information from the Clearinghouse in accordance with this section.

(c) The chief commercial driver's licensing official's use of information received from the Clearinghouse is limited to determining an individual's qualifications to operate a commercial motor vehicle. No chief driver's licensing official may divulge or permit any other person or entity to divulge any information from the Clearinghouse to any person or entity not directly involved in determining an individual's qualifications to operate a commercial motor vehicle.

(d) A chief commercial driver's licensing official who does not take appropriate safeguards to protect the privacy and confidentiality of information obtained under this section is subject to revocation of his or her right of access under this section.

PENALTIES 382.727

An employer, employee, MRO, or service agent who violates any provision of this subpart shall be subject to the civil and/or criminal penalty provisions of 49 U.S.C. 521(b)(2)(C).

INVESTIGATION AND INQUIRIES 391.23

(e) (4) As of January 6, 2023, employers subject to § 382.701(a) of § 382 must use the Drug and Alcohol Clearinghouse to comply with the requirements of this section with respect to FMCSA-regulated employers.

(i) *Exceptions.*

(A) If an applicant who is subject to follow-up testing has not successfully completed all follow-up tests, the employer must request the applicant's follow-up testing plan directly from the previous employer in accordance with § 40.25(b)(5) of Part 40.

(B) If an applicant was subject to an alcohol and controlled substance testing program under the requirements of a DOT mode other than FMCSA, the employer must request alcohol and controlled substances information required under this section directly from those employers regulated by a DOT mode other than FMCSA.

(ii) *[Reserved]*

(f) (1) A prospective motor carrier employer must provide to the previous employer the driver's consent meeting the requirements of § 40.321(b) of Part 40 for the release of the information in paragraph (e) of 391.23. If the driver refuses to provide this consent, the prospective motor carrier employer must not permit the driver to operate a commercial motor vehicle for that motor carrier.

(2) If a driver refuses to grant consent for the prospective motor carrier employer to query the Drug and Alcohol Clearinghouse in accordance with paragraph (e)(4) of 391.23, the prospective motor carrier employer must not permit the driver to operate a commercial motor vehicle.

Appendix A
South Amboy
Commercial Motor Vehicle Driver's
Certificate of Compliance with DOT Cellphone/Texting
Bans

MOTOR CARRIERS: The restrictions in 49 CFR Part 392 on using a mobile telephone or texting while driving apply to every operator of a "commercial motor vehicle" as defined in Section 390.5, including interstate vehicles weighing or rated at 10,001 pounds or more, vehicles placarded for hazardous materials, and certain vehicles designed or used for more than 8 passengers (including the driver). In-state operations of vehicles placarded for hazardous materials are also subject to the restrictions. Other in-state-only operations may also be subject, depending on state rules.

DRIVERS: Part 392 of the Federal Motor Carrier Safety Regulations contains restrictions on texting and the use of hand-held mobile telephones while driving a commercial motor vehicle (CMV), including the following:

- **Texting ban (392.80):** You may not manually enter text into or read text from an electronic device while driving a CMV. This includes e-mailing, text messaging, using the internet, pressing more than one button to start or end a phone call, or any other form of text retrieval or entry for communication purposes.
- **Hand-held cell-phone ban (392.82):** You are prohibited from using a hand-held cell phone while driving a CMV. This includes talking on a phone while holding it in your hand (including push-to-talk), pressing more than a single button to dial or answer a cell phone, or leaving your normal, seated driving position to reach for a cell phone.

Except as prohibited under City policy, you are allowed to use a hands-free phone, a CB radio, a navigation system, a two-way radio, a music player, or a fleet management system for purposes other than texting. Texting and hand-held cell-phone use are **only** allowed if you need to contact emergency services or if you have stopped in a safe location off the road.

Penalties (383.51, 391.15, 49 CFR 386): CDL and non-CDL drivers can be disqualified for 60 up to 120 days and/or face fines of up to \$2,750 for each violation. City can be fined up to \$11,000 for each violation.

It is understood that the above information is being provided to the employee in an effort by The City of South Amboy to show good faith efforts to achieve compliance with the above-cited regulations. (49 CFR § 386.81)

City of South Amboy Administrative Policy			
VOLUME: 1	CHAPTER: 8	# OF PAGES: 1 of 2	
SUBJECT: Job Descriptions			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: A job description including qualifications shall be maintained for each position (pursuant to New Jersey Civil Service Commission guidelines if the position is subject to Civil Service.) All job descriptions must be approved by the City Administrator. Copies can be made available upon request.

City of South Amboy Administrative Policy			
VOLUME: 1	CHAPTER: 9	# OF PAGES: 1 of 2	
SUBJECT: Safety Policy – Risk Management			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: The City of South Amboy will provide a safe and healthy work environment and shall comply with the Public Employees Occupational Safety and Health Act (PEOSHA). The City of South Amboy is equally concerned about the safety of the public. Consistent with this policy, employees will receive periodic safety training and will be provided with appropriate safety equipment. Employees are responsible for observing safety rules and using available safety devices including personal protective equipment. Failure to do so constitutes grounds for disciplinary action. Any occupational or public unsafe condition, practice, procedure or act must be immediately reported to the supervisor or Department Head. Any on-the-job accident or accident involving City of South Amboy facilities, equipment or motor vehicles must also be immediately reported to the supervisor or Department Head. The Supervisor or Department Head will compel the reporting employee to complete and submit any required accident reports. Additionally, the Department Head or Supervisor will complete any necessary supervisory reports.

By extension, this policy is designed to also protect members of the public who use City of South Amboy Facilities or Public Areas maintained by the City. City Employees who witness or receive a report that any person has been injured or suffered a medical emergency in a City of South Amboy Facility or Public Area maintained by the City shall immediately summon the appropriate emergency aid then report the incident to their supervisor as soon as emergency assistance is provided. Employees witnessing or having an incident reported to them by a member of the public that results in an injury or medical emergency are expected to document the incident immediately and include any photos or video evidence that might assist in the investigation of the incident.

Any employee who notices an unsafe condition in any City of South Amboy Facility or Public Area maintained by the City is required at minimum to take immediate steps to mitigate the risk to others and immediately report the condition to the appropriate supervisor so that immediate corrective action can be taken. Supervisors notified of unsafe conditions are obligated to take steps to address, correct, or contain the area and arrange for corrective measures.

The City of South Amboy has appointed a Safety Committee that meets on a regular basis to discuss and recommend solutions to safety problems. Employees are encouraged to discuss safety concerns with their Safety Committee Representative.

City of South Amboy Administrative Policy			
VOLUME: 1	CHAPTER: 10	# OF PAGES: 1 of 1	
SUBJECT: Bulletin Boards			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: The bulletin boards located in the City of South Amboy administrative building and other facilities are intended for official notices regarding policies, procedures, meetings and special events. Only personnel authorized by the City Administrator may post, remove, or alter any notice.

City of South Amboy Administrative Policy			
VOLUME: 1	CHAPTER: 11	# OF PAGES: 1 of 4	
SUBJECT: Communication Media			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: The City’s Communication Media are the property of the City of South Amboy and, as such, are to be used for legitimate business purposes only. For purposes of this Communication Media Policy, “Communication Media” includes all forms of electronic media provided by the City of South Amboy, including but not limited to cell phones, smart phones, computers, electronic tablets, access to the internet, voicemail, email, and fax.

All data stored on and/or transmitted through Communication Media is the property of the City of South Amboy. For purposes of this policy, “Data” includes “electronically-stored files, programs, tables, data bases, audio and video objects, spreadsheets, reports and printed or microfiche materials which serve a City of South Amboy business purpose, regardless of who creates, processes or maintains the data, or whether the data is processed manually or through any of the City’s mainframe, midrange or workstations; servers, routers, gateways, bridges, hubs, switches and other hardware components of the City’s local or wide-area networks.”

The City of South Amboy respects the individual privacy of its employees. However, employee communications transmitted by the City’s Communication Media are not private to the individual. **All Communication Media and all communications and stored information transmitted, received, or contained in or through such media may be monitored by the City of South Amboy. The City of South Amboy reserves the absolute right to access, review, and disclose all matters entered into, sent over, placed in storage in the City’s Communication Media.** By using the City’s equipment and/or Communication Media, employees consent to have such use monitored at any time,

with or without notice, by City of South Amboy personnel. The existence of passwords does not restrict or eliminate the City's ability or right to access electronic communications. However, the City of South Amboy cannot require the employee to provide its password to his/her personal account.

All email, voicemail and Internet messages (including any technology-based messaging) are official documents subject to the provisions of the Open Public Records Act (NJSA 47:1A-1). Employees of the City of South Amboy are required to use the assigned municipal email account for ALL City of South Amboy business and correspondence. The use of private email accounts for ANY City of South Amboy business or during business hours is strictly prohibited.

Employees can only use the City's Communication Media for legitimate business purposes. Employees may not use the City Communication Media in any way that is defamatory, obscene, or harassing or in violation of any City of South Amboy rules or policy. Examples of forbidden transmissions or downloads include sexually-explicit messages; unwelcome propositions; ethnic or racial slurs; or any other message that can be construed to be harassment or disparaging to others based on their actual or perceived age, race, religion, sex, sexual orientation, gender identity or expression, genetic information, disability, national origin, ethnicity, citizenship, marital status or any other legally recognized protected basis under federal, state or local laws, regulations or ordinances.

All employees, who have been granted access to electronically-stored data, must use a logon ID assigned by City of South Amboy. Certain data, or applications that process data, may require additional security measures as determined by the City of South Amboy. Employees must not share their passwords; and each employee is responsible for all activity that occurs in connection with their passwords.

All employees may access only data for which the City of South Amboy has given permission. All employees must take appropriate actions to ensure that City of South Amboy data is protected from unauthorized access, use or distribution consistent with these policies. Employees may not access or retrieve any information technology resource and store information other than where authorized.

Employees must not disable anti-virus and other implemented security software for any reason, in order to minimize the risk of introducing computer viruses into the City's computing environment.

EMPLOYEES MUST NOT INSTALL OR MODIFY ANY hardware device, software application, program code, either active or passive, or a portion thereof, without the express written permission from the City of South Amboy. Employees may not upload, download, or otherwise transmit commercial software or any copyrighted materials belonging to parties outside of the City of South Amboy, or licensed to the City of South Amboy. Employees shall observe the copyright and licensing restrictions of all software applications and shall not copy software from internal or external sources unless legally authorized.

The City of South Amboy encourages employees to share information with co-workers and with those outside the City of South Amboy for the purpose of gathering information, generating new ideas and learning from the work of others to the extent such sharing is permitted by the City of South Amboy. Social media provides inexpensive, informal and timely ways to participate in an exchange of ideas and information. However, information posted on a website is available to the public; therefore, employees must adhere to the following guidelines for their participation in social media. Employees may engage in social media activity during work time through the use of the City's Communication Media, provided that it is directly related to their work and it is in compliance with this policy.

Employees must not reveal or publicize confidential City of South Amboy information. Confidential, proprietary, or sensitive information may be disseminated only to individuals with a need and a right to know, and where there is sufficient assurance that appropriate security of such information will be maintained. Such information includes, but is not limited to the transmittal of personnel information such as medical records or related information. In law enforcement operations, confidential, proprietary or sensitive information also includes criminal history information, confidential informant identification, and intelligence and tactical operations files.

Employees are prohibited from releasing or disclosing any photographs, pictures, digital images of any crime scenes, traffic crashes, arrestees, detainees, people or job-related incident or occurrence taken with the City's Communication Media to any person, entity, business or media or Internet outlet whether on or off duty without the express written permission of the City Administrator. Except in "emergency situations, "Employees are prohibited from taking digital images or photographs with media equipment not owned by the City of South Amboy. For purposes of this section, an "emergency situation" involves a sudden and unforeseen combination of circumstances or the resulting state that calls for immediate action, assistance or relief, and may include accidents, crimes and flights from accidents or crimes and the employee does not have access to the City's Communication Media. If such situation occurs, employee agrees that any images belong to the City of South Amboy and agree to release the image to the

City of South Amboy and ensure its permanent deletion from media device upon direction from the City of South Amboy.

No media advertisement, electronic bulletin board posting, or any other posting accessible via the Internet about the City of South Amboy or on behalf of the City of South Amboy, whether through the use of the City's Communication Media or otherwise, may be issued unless it has first been approved by the City Administrator. Under no circumstances may information of a confidential, sensitive or otherwise proprietary nature be placed or posted on the Internet or otherwise disclosed to anyone outside the City of South Amboy.

Because postings placed on the Internet through use of the City's Communication Media will display on the City's return address, any information posted on the Internet must reflect and adhere to all of the City's standards and policies.

All users are personally accountable for messages that they originate or forward using the City's Communication Media. Misrepresenting, obscuring, suppressing, or replacing a user's identity on any Communication Media is prohibited. "Spoofing" (constructing electronic communications so that it appears to be from someone else) is prohibited.

Employees must respect the laws regarding copyrights, trademarks, rights of public City of South Amboy and other third-party rights. Any use of the City's name, logos, service marks or trademarks outside the course of the employee's employment, without the express consent of the City of South Amboy, is strictly prohibited. To minimize the risk of a copyright violation, employees should provide references to the source(s) of information used and cite copyrighted works identified in online communications.

To the extent that employees use social media outside of their employment and in so doing employees identify themselves as City's employees, or if they discuss matters related to the City of South Amboy on a social media site, employees must add a disclaimer on the front page, stating that it does not express the views of the City of South Amboy, and the employee is expressing only their personal views. For example: "The views expressed on this website/web log are mine alone and do not necessarily reflect the views of my employer." Place the disclaimer in a prominent position and repeat it for each posting that is expressing an opinion related to the City of South Amboy or the City's business. Employees must keep in mind that, if they post information on a social media site that is in violation of City of South Amboy policy and/or federal, state or local laws, the disclaimer will not shield them from disciplinary action.

Nothing in these policies is designed to interfere with, restrain or prevent employee communications regarding wages, hours or other terms and conditions of employment. City of South Amboy employees have the right to engage in or refrain from such activities.

City of South Amboy Administrative Policy			
VOLUME: 1	CHAPTER: 12	# OF PAGES: 1 of 2	
SUBJECT: Conflict of Interest			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Employees including City of South Amboy officials must conduct business according to the highest ethical standards of public service. Employees are expected to devote their best efforts to the interests of the City of South Amboy. Violations of this policy will result in appropriate discipline including termination.

The City of South Amboy recognizes the right of employees to engage in outside activities that are private nature and unrelated to City of South Amboy business. However, business dealings that appear to create a conflict between the employee and the City of South Amboy's interests are unlawful under the New Jersey Local Government Ethics Act. Under the Act, certain employees and officials are required to annually file with the City of South Amboy Clerk a state mandated disclosure form. The City of South Amboy Clerk will notify employees and City of South Amboy officials subject to the filing requirements of the Act.

A potential or actual conflict of interest occurs whenever an employee including a City of South Amboy official is in a position to influence a City of South Amboy decision that may result in a personal gain for the employee or an immediate relative including a spouse or significant other, child, parent, stepchild, sibling, grandparents, daughter-in-law, son-in-law, grandchildren, niece, nephew, uncle, aunt, or any person related by blood or marriage residing in an employee's household. Employees are required to disclose possible conflicts so that the City of South Amboy may assess and prevent potential conflicts. If there are any questions whether an action or proposed course of conduct would create a conflict of interest, immediately contact the City Administrator to obtain clarification.

Employees are allowed to hold outside employment as long as it does not interfere with their City of South Amboy responsibilities. Employees are prohibited from engaging in outside employment activities while on the job or using City of South Amboy time, supplies or equipment in the outside employment activities. The City Administrator may request employees to restrict outside employment if the quality of City of South Amboy work diminishes. Any employees who holds an interest in, or is employed by, any business doing business with the City of South Amboy must submit a written notice of these outside interests to the City Administrator.

Employees may not accept donations, gratuities, contributions or gifts that could be interpreted to affect their City of South Amboy duties. Under no circumstances accept donations, gratuities, contributions or gifts from a vendor doing business with or seeking to do business with the City of South Amboy or any person or firm seeking to influence City of South Amboy decisions Employees are required to report to the City Administrator any offer of a donation, gratuity, contribution or gift including meals and entertainment that is in violation of this policy.

City of South Amboy Administrative Policy			
VOLUME: 1	CHAPTER: 13	# OF PAGES: 1 of 1	
SUBJECT: Early Closing and Delayed Opening			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: In the event of unsafe conditions, the City Administrator may authorize Department Heads to close operations earlier than the normal working hours. If conditions exist prior to scheduled openings, the City Administrator shall notify Department Heads of a delayed opening and a new opening time. Each Department will have a calling system in place. If the employee chooses not to report to work, a full vacation day or compensating time will be charged. Sick time will only be charged for a legitimate illness. If work is called off for the day, no time will be charged for the day.

This provision does not apply to (the Department of Public Works,) (Police,) (Fire,) (Water,) (Sanitation,) (Emergency Services) (or) any personnel who may be required to assist in an emergency.

City of South Amboy Administrative Policy			
VOLUME: 1	CHAPTER: 14	# OF PAGES: 1 of 2	
SUBJECT: Access to Personnel Files Policy			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: The official personnel file for each employee shall be maintained by the Personnel Officer. Personnel files are confidential records that must be secured in a locked cabinet and will only be available to authorized managerial and supervisory personnel on a need-to-know basis. Records relating to any medical condition will be maintained in a separate file. Electronic personnel and medical records must be protected from unauthorized access.

Upon request, employees may inspect their own personnel files at a mutually agreeable time on the City of South Amboy premises in the presence of the Personnel Officer or a designated supervisor. The employee will be entitled to see any records used to determine his or her qualification for employment, promotion or wage increases and any records used for disciplinary purposes. Employees may not remove any papers from the file. Employees will be allowed to have a copy of any document they have signed relating to their obtaining employment. Employees may add to the file their versions of any disputed item.

Personnel files do not contain confidential employee medical information. Any such information that the City of South Amboy may obtain will be maintained in separate files and treated at all times as confidential information. Any such medical information may be disclosed under very limited circumstances in accordance with any applicable legal requirements.

The City of South Amboy endeavors to maintain the privacy of personnel records. There are limited circumstances in which the City of South Amboy will release information contained in personnel or medical records to persons outside the City. These circumstances include:

1. In response to a valid subpoena, court order or order of an authorized administrative agency;
2. To an authorized governmental agency as part of an investigation of the City's compliance with applicable law;
3. To the City's agents and attorneys, when necessary;
4. In a lawsuit, administrative proceeding, grievance or arbitration in which the employee and the City of South Amboy are parties;
5. In a workers' compensation proceeding;
6. To administer benefit plans;
7. To an authorized health care provider;
8. To first aid or safety personnel, when necessary; and
9. To a potential future employer or other person requesting a verification of your employment as described in the following section titled, "Requests for Employment Verification and Reference Procedure."

Any Requests for Employee Verification must be submitted in writing and forwarded to the City Administrator for processing. Information provided to prospective employers will be limited to Dept./Title and Years of Service.

City of South Amboy Administrative Policy			
VOLUME: 1	CHAPTER: 15	# OF PAGES: 1 of 1	
SUBJECT: Political Activity			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date:		Reviewed/Revised: November 6, 2019	

POLICY: Employees have exactly the same right as any other citizen to join political organizations and participate in political activities, as long as they maintain a clear separation between their official responsibilities and their political affiliations. Employees are prohibited from engaging in political activities while performing their public duties and from using City of South Amboy time, supplies or equipment in any political activity. Any violation of this policy must be reported to the supervisor, Department Head, City Administrator and is subject to disciplinary action.

City of South Amboy Administrative Policy			
VOLUME: 1	CHAPTER: 16	# OF PAGES: 1 of 1	
SUBJECT: Smoking			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: The New Jersey Legislature has declared that in all governmental buildings the rights of non- smokers to breathe clean air supersedes the rights of smokers. In accordance with State law, the City of South Amboy has adopted a smoke-free policy for all buildings. City of South Amboy facilities shall be smoke-free, and no employee or visitor will be permitted to smoke anywhere in City of South Amboy buildings. Employees are permitted to smoke only outside City of South Amboy buildings. Smoking inside vehicles owned by the City of South Amboy and near equipment that may be sensitive to smoke is also prohibited. This policy shall be strictly enforced, and any employee found in violation will be subject to disciplinary action.

City of South Amboy Administrative Policy			
VOLUME: 1	CHAPTER: 17	# OF PAGES: 1 of 1	
SUBJECT: Telephone Usage			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: City of South Amboy telephones are for official business and employees may make a personal call only to inform their family of unexpected overtime. Charges for all other personal calls must be reimbursed to the City of South Amboy. The use of hand-held cell phones while driving City of South Amboy vehicles or while driving on City of South Amboy business is prohibited.

City of South Amboy Administrative Policy			
VOLUME: 1	CHAPTER: 18	# OF PAGES: 1 of 1	
SUBJECT: Use of Vehicles			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Unless an employee receives permission from the City Administrator or Department Head, City of South Amboy owned vehicles shall be used only on official business and all passengers must be on City of South Amboy business.

Employees who as part of their job are required to operate a motor vehicle owned by the City of South Amboy or who may utilize their personal vehicle to perform duties on behalf of the City are required to possess a valid New Jersey Driver License. Employees shall be required to submit a copy of their Driver License annually at the request of the City.

It at any time an employee's driving privileges are suspended or revoked for any reason they are required to notify their immediate supervisor within 24 hours of notification by the NJ MVC or Courts. City employees who are required to maintain a valid Driver License as a condition of their continued employment may be subject to reassignment, suspension and/or termination.

Vehicles may be taken home only with the advance approval of the City Administrator or Department Head, except a Mayor may also grant temporary approval to facilitate responses to after-hours emergency calls. When an employee takes home a City of South Amboy vehicle, it is to be used only for official City of South Amboy business; any other use is not permitted. At no time shall children be in the City of South Amboy vehicle when responding to an emergency. Any violation of this policy constitutes cause for disciplinary action. Employees authorized to use such vehicles for commuting to/from work will have a fringe benefit value added to their gross income reported on their form W-2 unless the vehicle meets the qualified non-personal vehicle criteria

specified by the IRS in bulletin 2010-23, Qualified Nonpersonal Use Vehicles, generally police, fire or public safety officer vehicles.

City of South Amboy Administrative Policy			
VOLUME: 1	CHAPTER: 19	# OF PAGES: 1 of 2	
SUBJECT: Video Surveillance			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: The City of South Amboy may install video surveillance camera systems within public buildings and throughout public areas within the City of South Amboy, primarily as visual deterrents to criminal behavior and for the protection of employees and municipal assets. In implementing these video camera systems, the City of South Amboy will ensure compliance with federal, state and local laws governing such usage.

The City's video surveillance camera systems are a significant tool to which the employees of the City of South Amboy will avail themselves in order to complete the goals and objectives of the City of South Amboy. Employees are only permitted to use the video surveillance camera systems for a legitimate purpose and with proper authorization. The City's designee will be responsible for authorization of users. The improper use of these systems can result in discipline up to and including termination.

No employee is permitted to view, continually watch, search, copy or otherwise use one of the City's video surveillance camera systems or tamper with access, archive, alter, add to, or make copies of any data that has been recorded and stored within any of these systems without (1) a specific legitimate purpose and (2) permission for the designee of the City of South Amboy.

The City of South Amboy shall designate a person to be responsible for the maintenance and administration of the video surveillance camera system. Such designee will be responsible for maintaining a user access log detailing the date and name of individuals who view/access a stored recording.

Any employee who becomes aware of any unauthorized disclosure of a video record in a contravention of this policy and/or a potential privacy breach has the responsibility to ensure that the Police Chief and City Administration are immediately informed of such breach.

City of South Amboy Administrative Policy			
VOLUME: 1	CHAPTER: 20	# OF PAGES: 1 of 1	
SUBJECT: Workforce Reduction			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Pursuant to N.J.A.C. 4A: 8-1.1 the City of South Amboy may institute layoff actions for economy, efficiency or other related reasons, but will first consider voluntary alternatives. (Seniority, lateral or other re-employment rights for employees in Career Service titles will be determined by the New Jersey Department of Personnel.)

City of South Amboy Administrative Policy			
VOLUME: 1	CHAPTER: 21	# OF PAGES: 1 of 1	
SUBJECT: Use of City Facilities/Equipment			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: City of South Amboy Facilities and Equipment are acquired and maintained for the use of City Residents. The continued operation of these assets is funded by taxpayer monies. City Employees are prohibited from utilizing City Facilities and/or equipment for other than City authorized uses. Violation of this provision is subject to the disciplinary process.

City of South Amboy Administrative Policy			
VOLUME: 2	CHAPTER: 1	# OF PAGES: 1 of 1	
SUBJECT: Bereavement Leave			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Employees are entitled to 3 consecutive calendar days leave of absence for each death of an employee's immediate relative "Immediate relative" includes spouse or significant other, civil union partner, child, parent, stepchild, sibling, grandparents, daughter-in-law, son-in-law, grandchildren, niece or nephew as well as any person related by blood or marriage residing in an employee's household. One paid bereavement day is allowed for the death of an Aunt or Uncle.

City of South Amboy Administrative Policy			
VOLUME: 2	CHAPTER: 2	# OF PAGES: 1 of 2	
SUBJECT: Domestic Violence Leave			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: The New Jersey Security and Financial Empowerment Act, also known as the "NJ SAFE Act" provides protection for employees and their family members who have been the victim of domestic violence or sexual assault. Employees are entitled to twenty (20) days of unpaid protected leave from work to:

- Seek medical attention for physical or psychological injuries;
- Obtain services from a victim services organization, pursue psychological or other counseling;
- Participate in safety planning for temporary or permanent relocation;
- Seek legal assistance to ensure health and safety of the employee or the employee's relative; or
- Attend, participate in, or prepare for a criminal or civil court proceeding relating to an incident of domestic or sexual violence.

To be eligible for the leave, an employee must meet the following criteria:

- The employee or their child, parent, spouse or domestic partner must be a victim of domestic violence or a sexually violent offense;
- The employee must have worked for the employer for at least twelve months and for at least 1,000 hours during the twelve (12) month period immediately preceding the requested leave; and
- The twenty (20) day leave must be taken within one (1) year of the qualifying event.

Employees may take leave on an intermittent basis but such leave cannot be shorter than one (1) full day. To the extent the leave is foreseeable, employees must provide notice. In addition, employee seeking leave must provide proof that they

qualify for the leave. Such proof may include restraining order, letter from a prosecutor, proof of conviction, medical documentation or a certification from an agency or professional involved in assisting the employee.

In certain circumstances, the basis for the leave may also qualify under the federal Family and Medical Leave Act and/or the New Jersey Family Leave act. If so, the City of South Amboy will treat the leave concurrently with the leave under those statutes. Employees may be required to use accrued paid vacation leave, personal time or sick leave concurrently.

The City of South Amboy shall protect the privacy of employees who seek leave by holding the request for leave, the leave itself or the failure to return to work "in the strictest confidence." The City of South Amboy shall not retaliate, harass or discriminate against any employee exercising his/her right to take the leave provided by this policy.

City of South Amboy Administrative Policy			
VOLUME: 2	CHAPTER: 3	# OF PAGES: 1 of 1	
SUBJECT: Jury Duty			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: An employee required to render jury service shall be entitled to be absent from work during that service and will be paid their regular pay for the day of Jury service.

City of South Amboy Administrative Policy			
VOLUME: 2	CHAPTER: 4	# OF PAGES: 1 of 1	
SUBJECT: Leave of Absence			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Employees may be granted a personal leave of absence for up to six months at the sole discretion of the City Administrator if the leave does not cause undue operational disruption. The leave must include the use of any accrued vacation and sick leave time, regardless of the length of leave requested. The portion of the leave that runs beyond the exhaustion of vacation and sick leave will be without pay or longevity credit. In exceptional circumstances, the City Administrator may extend a leave of absence for an additional six months, if such extension is considered in the best interests of the City of South Amboy.

Personal leaves are not granted for the purpose of seeking or accepting employment with another employer, or for extended vacation time. Employees on personal leave of absence for more than two weeks in any month will not receive holiday pay, and will not accrue personal leave, sick leave or vacation time for that month. Health benefits may also be impacted. Refer to the City of South Amboy Health Benefits Policy. A personal leave is granted with the understanding that the employee intends to return to work for the City of South Amboy. If the employee fails to return within five business days after the expiration of the leave, the employee shall be considered to have resigned.

City of South Amboy Administrative Policy			
VOLUME: 2	CHAPTER: 5	# OF PAGES: 1 of 1	
SUBJECT: Contagious or Life-Threatening Illness Policy			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: The City of South Amboy encourages employees with contagious diseases or life-threatening illnesses to continue their normal pursuits, including work, to the extent allowed by their condition. The City of South Amboy shall make reasonable accommodations to known physical and mental limitations of all employees, provided that the individual is otherwise qualified to safely perform the essential functions of the job and also provided that the accommodation does not impose an unreasonable hardship on the City of South Amboy.

The City of South Amboy will take reasonable precautions to protect such information from inappropriate disclosure, including the following:

- Medical information may be disclosed with the prior written informed consent of the person who is the subject of the information.
- Information may be disclosed without the prior written consent to qualified individuals for the purpose of conducting management audits, financial audits, and program evaluations, but these individuals shall not identify, either directly or indirectly, the person who is the subject of the record in a report or evaluation, or otherwise disclose the person's identity in any manner. Information shall not be released to these individuals unless it is vital to the audit or evaluation.
- Information may be disclosed to the Department of Health as required by State or Federal law.

Managers and other employees have a responsibility to maintain the confidentiality of employee medical information. Anyone inappropriately disclosing such information shall be subject to disciplinary action.

City of South Amboy Administrative Policy			
VOLUME: 2	CHAPTER: 6	# OF PAGES: 1 of 2	
SUBJECT: Military Leave			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: When a full-time employee (either permanent or temporary) who is a member of the reserve component of any United States armed forces or the National Guard of any state including the Naval Militia and Air National Guard is required to engage in field training or is called for active duty, the employee will be granted a military leave of absence for the duration of the service. The first thirty (30) workdays of the leave shall be with full pay except that a member of the New Jersey National Guard shall receive full pay for the first ninety (90) days. Thereafter, the employee shall be paid the difference between military salary and the employee's regular salary. The paid leave will not be counted against any available time off including but not limited to vacation, sick or personal time. A full-time temporary employee who has served less than one-year shall not be entitled to paid leave but shall be granted non-paid military leave without loss of time.

Employees on military service will also continue to receive paid health insurance coverage during the period of the paid leave. (Employee Contribution applies) Members of the State administered retirement systems (PERS and PFRS) will continue accruing service and salary credit in the system during the period of paid leave.

Pursuant to the Uniformed Services Employment and Reemployment Rights Act, any employee released from active duty under honorable circumstances shall return to work without loss of privileges or seniority within the following time limits: for service less than thirty-one (31) calendar days, the employee must return to work on the beginning of the first regularly scheduled workday or eight (8) hours

after the end of military duty, with reasonable allowances for commuting; for service of thirty-one (31) to one hundred eighty (180) calendar days, the employee must submit an application for reinstatement within fourteen (14) calendar days after completing military duty; for service greater than one hundred and eighty (180) calendar days, the employee must submit an application for reinstatement within ninety (90) calendar days after completing military duty.

City of South Amboy Administrative Policy			
VOLUME: 2	CHAPTER: 7	# OF PAGES: 1 of 1	
SUBJECT: Personal Days			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Employees are entitled to 3 personal days per year and any unused days are forfeited at the end of each calendar year.

City of South Amboy Administrative Policy			
VOLUME: 2	CHAPTER: 8	# OF PAGES: 1 of 1	
SUBJECT: Sick Leave			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Full Time Employees are entitled to 15 working days of sick leave per calendar year. Per the NJ Paid Sick Time Act Part Time Employees shall accrue up to 40 hours of sick leave at a rate of one hour for every 30 hours worked. . Sick leave is to be used only in cases where the employee is ill and unable to work, or in cases of the serious illness of a family member. Employees absent on sick leave for three or more consecutive working days must submit a doctor's verification of illness or injury. If an employee is attending to an immediate family member, including civil union partner, a doctor's verification of that individual is required. Prior to the return to work, the City of South Amboy may require an employee to be examined by a physician designated by the City of South Amboy to verify fitness to return to normal duties. An employee will not be permitted to return to work until the verification is received.

At the end of each calendar year, an employee's unused sick time is added to the allotment for the following year. The accumulation continues indefinitely, and employees will be paid for one- half of their total accumulated unused sick time, up to \$15,000 at the time the employee resigns or retires from employment. Part time employees may not carry over more than 40 hours of accrued sick time in a single benefit year and will not be paid for unused sick time upon separation of service.

New employee sick days will be pro-rated at 1.25 days per month during their first calendar year of employment.

City of South Amboy Administrative Policy			
VOLUME: 2	CHAPTER: 9	# OF PAGES: 1 of 1	
SUBJECT: Vacation			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Vacation is an accrued benefit based on the following schedule:

One day for each full month of service during the first calendar year;

1. Twelve days for the first through fifth year;
2. Fifteen days for the sixth through tenth years; and
3. Twenty days for the eleventh through fifteenth years.
4. Twenty-five days for sixteenth through twentieth years
5. Thirty days for 21 years and over of service.

Employees who do not use all their vacation allowance may add their unused days to their allowance for the following year. However, no more than 10 days can be carried over at any time without express permission of the Administrator.

City of South Amboy Administrative Policy			
VOLUME: 2	CHAPTER: 10	# OF PAGES: 1 of 4	
SUBJECT: Family and Medical Leave Act (FMLA)			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Employees may be eligible for an unpaid family and medical leave under the federal Family and Medical Leave Act (“FMLA”). Employees also may be eligible for family and/or medical leave pursuant to the New Jersey Family Leave Act (“FLA”). In order to be eligible for such leave, employees must have: one (1) year of service with City; and, at least 1,000 hours of work (for New Jersey leave) and 1,250 hours of work (for Federal leave) during the previous twelve (12) months and is employed at a worksite where 50 or more employees are employed by the employer within 75 miles of the worksite (for Federal leave). Eligible employees may receive up to twelve (12) weeks of leave per year (FMLA) or twelve (12) weeks every twenty-four (24) months (FLA).

During the leave period, the employee’s health benefits will be continued on the same conditions as coverage would have been provided had the employee been employed continuously during the entire leave. The employee will not continue to accrue vacation, sick or personal days for the period of the leave. The employee will receive seniority credit for the time that the employee has been on leave under this section. At the conclusion of the leave period, an eligible employee is entitled to reinstatement to the position the employee previously held or to an equivalent one with the same terms and benefits that existed prior to the exercise of leave.

Upon written notice, eligible employees are entitled to a family or medical leave for up to twelve weeks to care for a newly born or adopted child or a seriously ill immediate family member, including civil union partner, or for the employee’s own serious health condition that makes the employee unable to perform the functions of the employee’s position. Eligible employees who take leave under this policy must use all accrued available vacation and personal days during the

leave. The use of accrued time will not extend the leave period. After exhausting accrued time, the employee will no longer be paid for the remainder of the leave.

The period of leave must be supported by a physician's certificate. An extension past twelve weeks can be requested, but medical verification of the need must be submitted prior to the expiration of the leave. The City of South Amboy reserves the right to deny any request for extended leave. Additional information concerning the Family Leave Policy and eligibility requirements are available from the Personnel Officer.

Commencing July 1, 2009, Family Temporary Disability ("FTD") payments for up to six (6) weeks in a twelve (12) month period will become available for eligible employees who are caring for a seriously ill immediate family member who is incapable of self-care or care of a newborn or adopted child. To be eligible, the employee must have worked at least 20 weeks at minimum wage within the last 52 weeks or earned 1000 times the minimum wage. The weekly benefit is 2/3 of weekly compensation up to a maximum of \$524 per week (this amount is subject to change). FTD will run concurrently with FMLA and/or FLA leaves and there is a one week waiting period. Employees may also be required to use accrued sick, vacation or personal leave for up to two weeks.

Employees taking paid family leave in connection with a family member's serious health condition may take leave intermittently or consecutively. Intermittent leave is not available for the care of a newborn or adopted child. Intermittent leave may be taken in increments necessary to address the circumstances that precipitated the need for leave. An employee seeking intermittent paid family leave is required to provide the City of South Amboy with 15 days' notice unless an emergency or other unforeseen circumstance precludes prior notice. The employee seeking intermittent leave shall make a reasonable attempt to schedule leave in a non-disruptive manner. Employees requesting such leave shall provide the City of South Amboy with a regular schedule of days for intermittent leave.

Employees may also be eligible for an unpaid leave for up to twenty-six (26) workweeks in a year to care for a family member on active duty in the military or a covered veteran (a covered veteran is an individual who was discharged or released under conditions other than a dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran) with a serious injury or illness incurred in the line of duty on active duty for which the service member is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, or up to twelve (12) weeks in a year for a qualifying exigency. A qualifying exigency occurs when a military member is called to covered active duty (requires deployment to a foreign country) and a close

member of his/her family must attend official ceremonies or family support or assistance meetings, there is a short-notice deployment, to attend to childcare matters, attend to financial and/or legal matters, or counseling. A serious injury or illness means an injury or illness incurred by a covered servicemember in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank, or rating

A serious injury or illness also means an injury or illness that was incurred by the covered veteran in the line of duty on active duty in the Armed Forces or that existed before the veteran's active duty and was aggravated by service in the line of duty on active duty, and that is either:

6. a continuation of a serious injury or illness that was incurred or aggravated when the veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember's office, grade, rank, or rating; *or*
7. a physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and the need for military caregiver leave is related to that condition; *or*
8. a physical or mental condition that substantially impairs the veteran's ability to work because of a disability or disabilities related to military service, or would do so absent treatment; *or*
9. an injury that is the basis for the veteran's enrollment in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

Any *one* of these definitions meets the FMLA's definition of a serious injury or illness for a covered veteran regardless of whether the injury or illness manifested before or after the individual became a veteran.

Upon employer's request, an employee must provide a copy of the covered military member's active duty orders to support request for qualifying exigency leave. In addition, upon an employer's request, certification for qualifying exigency leave must be supported by a certification containing the following information:

- 1 statement or description of appropriate facts regarding the qualifying exigency for which leave is needed;

- 2 approximate date on which the qualifying exigency commenced or will commence;
- 3 beginning and end dates for leave to be taken for a single continuous period of time;
- 4 an estimate of the frequency and duration of the qualifying exigency if leave is needed on a reduced scheduled basis or intermittently; and
- 5 if the qualifying exigency requires meeting with a third party, the contact information for the third party and description of the purpose of the meeting.

Eligible employees may also take leave to care for a military member's parent who is incapable of self-care when the care is necessitated by the member's covered active duty. Such care may include arranging for alternative care, providing care on an immediate basis, admitting or transferring the parent to a care facility, or attending meetings with staff at a care facility.

Employees who request qualifying exigency leave to spend time with a military member on Rest & Recuperation may take up to a maximum of 15 calendar days. Upon an employer's request, an employee must provide a copy of the military member's Rest and Recuperation leave orders, or other documentation issued by the military setting forth the dates of the military member's leave.

City of South Amboy Administrative Policy			
VOLUME: 2	CHAPTER: 11	# OF PAGES: 1 of 2	
SUBJECT: Overtime (General)			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Under the Federal Fair Labor Standards Act, certain employees in managerial, supervisory, administrative, computer or professional positions are exempt from the provisions of the Act. There are also employees who may be exempt because their compensation exceeds \$100,000 per year depending upon their job duties. The City Administrator shall notify all Exempt employees of their status under the Act. Exempt employees are not eligible to receive overtime compensation and are required to work the normal workweek and any additional hours needed to fulfill their responsibilities. Time off consideration for large amounts of additional hours may be provided with the City Administrator's prior approval and at the sole discretion of the City Administrator.

All other employees are classified as Non-Exempt and are subject to the provisions of the Act. Depending on work needs, Non-Exempt employees may be required to work overtime. Non-Exempt employees are not permitted to work overtime unless the overtime is budgeted and approved by the Department Head and the City Administrator. Non-Exempt employees working overtime without prior approval will be subject to disciplinary action.

Non-Exempt employees will receive overtime compensation for hours worked in excess of forty in a weekly period. The maximum number of hours that an employee may accrue for future compensating time off is 400 hours. Once this maximum has been accumulated, all additional hours will be compensated by overtime pay. Accrued and used overtime compensating hours must be noted on the employee's time sheet. Compensatory time shall not be available for use until the pay period following the one in which it is earned.

Non-Exempt employees will receive one and one-half hours of overtime compensation for each hour worked in excess of forty hours in a weekly period. For purposes of overtime

compensation, hours worked are computed to the nearest one-half hour per day. Previously scheduled vacation time and holiday time are considered time worked for purposes of determining overtime compensation, but sick time and personal time are not.

(In addition to the requirements of the Federal Fair Labor Standards Act, Non-Exempt employees will also receive overtime compensation for work more than thirty-five hours but not greater than forty hours in a weekly period. This other compensation will be one hour for each hour worked in excess of thirty-five hours.) (If a Non-Exempt employee works on Sunday or a paid holiday, the employee will receive overtime compensation of 2 hour(s) for each hour worked less the number of hours of overtime compensation received under any other provision of the policy.) (If a Non-Exempt employee not on regular call out duty is required to return to work in an emergency or because of unusual circumstance, the employee will receive overtime compensation of the greater of (1) 4 hours or (2) the actual number of hours worked (3) less the number of hours of overtime compensation received under any other provision of this policy.)

Employees must make a request to their supervisor at least two days in advance when they want to take compensating time off. The supervisor will approve the request if the absence does not cause undue hardship to the department.

City of South Amboy Administrative Policy			
VOLUME: 2	CHAPTER: 13	# OF PAGES: 1 of 1	
SUBJECT: Paid Holidays Non-Union Employees			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: Decemer 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Employees are entitled to the following paid holidays:

1. New Year's Day
2. Martin Luther King's Birthday
3. Lincoln's Birthday
4. President's Day
5. Good Friday
6. Memorial Day
7. Independence Day
8. Labor Day
9. Columbus Day
10. Election Day
11. Veterans Day
12. Thanksgiving Day
13. Day after Thanksgiving (except Sanitation personnel who receive one extra day)
14. Christmas Day

Unless otherwise informed, a holiday falling on a Saturday will be observed on the preceding Friday, and a holiday falling on a Sunday will be observed on the following Monday.

City of South Amboy Administrative Policy			
VOLUME: 2	CHAPTER: 14	# OF PAGES: 1 of 1	
SUBJECT: Payment for Accumulated Absence			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: To the extent that a local ordinance, collective bargaining agreement, or an employment agreement provides the process for the payment of compensation for accumulated absences in accordance with N.J.A.C. 5:30-15. The City of South Amboy shall only make such payment if the Chief Financial Officer or Business Administrator certifies that such amount is due and that proper documentation establishing that the amount of the accumulated absence has been provided and funds are available to pay. All Proper Documentation includes:

- A copy of the agreement, ordinance and/or resolution;
- Documentation of the amount of accumulated absence time; and
- The total value of the compensation due.

Nothing in this section grants employees' compensation for absences from work.

City of South Amboy Administrative Policy			
VOLUME: 2	CHAPTER: 15	# OF PAGES: 1 of 1	
SUBJECT: Payroll			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Salary ranges are established by ordinance, and the salary must fall within the minimum and maximum ranges for the employee's title. Employees are paid every two weeks.

The City of South Amboy will not accept responsibility for any employee's personal finances. The City will acknowledge judgments against an employee's pay but will not act as a mediator between the employee and creditors.

City of South Amboy Administrative Policy			
VOLUME: 2	CHAPTER: 16	# OF PAGES: 1 of 1	
SUBJECT: Timesheets			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Non-exempt employees are required to accurately record their work time on the designated time record, sign it and return into his/her supervisor. Non-exempt employees and exempt employees are required to report their sick time, vacation time and holiday time on the designated time record. Non-exempt and exempt employees shall turn the time record into his/her supervisor. The City reserves the right to implement the use of time clocks/software to collect payroll records.

The supervisor shall review the record for accuracy and approve it and submit it to the designated payroll representative.

City of South Amboy Administrative Policy			
VOLUME: 2	CHAPTER: 17	# OF PAGES: 1 of 2	
SUBJECT: Transitional Duty Policy			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: The City of South Amboy will endeavor to bring employees with temporary disabilities back to work as soon as possible and may assign transitional (light) duty to employees who temporarily cannot perform the essential functions of their positions because of injury or illness. Transitional duty is not guaranteed and will not exceed 45 workdays. If a department already has one employee on transitional duty, it is unlikely that another employee from that department will be assigned transitional duty.

An employee requesting transitional (light) duty or the Workers Compensation Physician shall notify the City Administrator as soon as the temporarily disabled employee is able to return to work with restrictions. Transitional (light) duty will only be assigned if the employee will probably be able to perform the essential functions of the position after the transitional duty period. The City Administrator will consult with the Department Head to determine if there is any meaningful work that can be performed consistent with the restrictions. Transitional duty assignments may be in any department and not just the employee's normal department. The City Administrator will decide if it is in the best interest of the City of South Amboy to approve a transitional duty request and will notify the employee of the decision. The City of South Amboy reserves the right to terminate the transitional duty assignment at any time without cause.

Employees may not refuse transitional duty assignments that are recommended by the Workers Compensation Physician. In such cases, failure to report to work as directed shall constitute immediate grounds for noncompliance or dismissal. If the employee believes that the transitional duty assignment is beyond the employee's abilities, the employee may request a meeting with the City Administrator who will render a written response within 24 hours.

Employees on transitional duty will receive their regular salaries and are prohibited from engaging in any outside employment of any kind unless they receive prior written approval from the City Administrator. If transitional duty is approved, the employee or Workers Compensation Physician must keep the City Administrator informed of the medical progress. (Employees assigned to transitional duty will be allotted time off to attend medical or physical therapy appointments but must request leave time for any other reason.) If at the end of transitional duty period the employee is not able to return to work without restrictions, the City of South Amboy reserves the right at its sole discretion to extend the transitional duty or place the employee back on Workers Compensation or disability. This policy does not affect an employee's rights under the Americans with Disabilities Act, the Family and Medical Leave Act, the Fair Labor Standards Act, the Contagious or Life-Threatening Illnesses Policy or other Federal or State law.

City of South Amboy Administrative Policy			
VOLUME: 3	CHAPTER: 1	# OF PAGES: 1 of 1	
SUBJECT: Deferred Compensation			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Plans are available through Nationwide and Valic paid via payroll deduction and governed by both State and Federal regulations.

City of South Amboy Administrative Policy			
VOLUME: 3	CHAPTER: 2	# OF PAGES: 1 of 1	
SUBJECT: Dental Benefits			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Coverage is provided pursuant to the City of South Amboy's approved plan document on file.

City of South Amboy Administrative Policy			
VOLUME: 3	CHAPTER: 3	# OF PAGES: 1 of 1	
SUBJECT: Educational Assistance			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Subject to sufficient funds in the budget and upon approval of the Department Head, employees may apply for reimbursement of tuition expenses incurred for training or college courses directly related to the employee's work. The City Administrator will be the sole judge of whether a particular course or program is "directly related" to the employee's work. Employees are strongly urged to obtain this determination before enrolling in a course or program.

Employees may receive reimbursement for up to 100 percent of the tuition cost for training or college courses that they take on their own initiative. The reimbursement must be repaid if the employee leaves City of South Amboy employment within twenty-four months of receipt. When enrollment for short training courses or seminars is requested by the City of South Amboy, employees will receive full reimbursement.

City of South Amboy Administrative Policy			
VOLUME: 3	CHAPTER: 4	# OF PAGES: 1 of 1	
SUBJECT: Employee Assistance Policy			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: The City of South Amboy provides an Employee Assistance Program is provided to all City employees and such employees' immediate family members through Bensinger, Dupont and Associates. A copy of the services provided is on file in the City Administrator's office.

City of South Amboy Administrative Policy			
VOLUME: 3	CHAPTER: 5	# OF PAGES: 1 of 1	
SUBJECT: Flexible Spending Account			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Flexible Spending Accounts are offered to all employees by American Fidelity, paid via payroll deductions and governed by all applicable Federal laws.

City of South Amboy Administrative Policy			
VOLUME: 3	CHAPTER: 6	# OF PAGES: 1 of 1	
SUBJECT: Health Insurance			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Full time employees and their immediate family members, including civil union partner, are provided health insurance coverage administered by the State Health Benefits Plan. The City of South Amboy reserves the right to change provider networks, claims agents, and insurance mechanisms (fully insured versus health insurance fund, e.g.). The complete benefit plan is on file in the Administrator's office and a Summary Plan Description will be provided to all employees. Benefit levels for non-unionized employees are subject to change at the discretion of the City of South Amboy.

Health insurance coverage for employees on a Leave of Absence or who cease City of South Amboy employment will terminate at the end of the month in which the leave begins or employment is terminated except coverage will continue for up to twelve weeks for employees on leave pursuant to the Family and Medical Leave Act and up to thirty weeks for employees on Military Leave. Upon termination of coverage, employees may extend health insurance coverage for themselves or their dependents by taking advantage of the Public Health Services Act provision for a period of up to eighteen months to thirty-six months. All newly hired employees and their spouses shall receive a notice of Cobra rights upon being hired. For more information, consult the Administration Department.

(Employees who retire and meet certain criteria, may continue to receive paid health insurance coverage. Employees receiving retiree health benefits must notify the Administrator in writing, with proof of enrollment, when they become eligible for Medicare Parts A and B. For more information, consult the Administrator.)

City of South Amboy Administrative Policy			
VOLUME: 3	CHAPTER: 7	# OF PAGES: 1 of 1	
SUBJECT: Prescription Drug Benefits			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Coverage is provided pursuant to the City of South Amboy's approved plan document on file.

City of South Amboy Administrative Policy			
VOLUME: 3	CHAPTER: 8	# OF PAGES: 1 of 1	
SUBJECT: Prescription Eye Glass Benefits			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Coverage is provided pursuant to the City of South Amboy's approved plan document on file.

City of South Amboy Administrative Policy			
VOLUME: 3	CHAPTER: 9	# OF PAGES: 1 of 1	
SUBJECT: Retirement			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Under State law, all eligible employees must enroll in the New Jersey Defined Contribution Retirement Program, New Jersey Public Retirement System or the Police and Fire Fighters Retirement System as applicable. The employee's contribution to the Plan will be deducted from the employee's pay. An employee who has completed the required number of years and who has reached the required age under the Plan may retire by notifying the Department Head in writing. The State retirement plans request six months advance notice to process the application. After giving notice of retirement, employees are expected to assist their supervisor and co-employees by providing information concerning their current projects and help in the training of a replacement. The Department Head will prepare an Employee Action form showing any pay or other money owed the employee. The Personnel Officer will conduct a confidential exit interview to discuss benefits including COBRA options, appropriate retirement issues and pay due. A COBRA notification letter will be sent to the employee's home address. The exit interview will also include an open discussion with the employee. On the last day of work, and prior to receiving the final paycheck, the employee must return the Employee Identification Card, all keys and equipment. At this time, the employee will sign the termination memo designating all money owed and this memo will be retained in the official personnel file.

City of South Amboy Administrative Policy			
VOLUME: 3	CHAPTER: 10	# OF PAGES: 1 of 1	
SUBJECT: Vacation			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Vacation is an accrued benefit based on the following schedule:

One day for each full month of service during the first calendar year;

1. Twelve days for the first through fifth year;
2. Fifteen days for the sixth through tenth years; and
3. Twenty days for the eleventh through fifteenth years.
4. Twenty-five days for sixteenth through twentieth years
5. Thirty days for 21 years and over of service.

Employees are expected to schedule and utilize their annual vacation leave. It is only where an employee is unable to take vacation leave due to business demands that they are permitted to carry vacation time over into the next year. A failure to schedule or use vacation time, unrelated to work demands, will not warrant the carryover of vacation time into the next calendar year.

Employees who do not use all their vacation allowance due to business demands may add their unused days to their allowance for the following year. Vacation allowance added to a subsequent year must be used during that year only. However, no more than 10 days can be carried over at any time without express permission of the Administrator. Vacation not taken in a given year because of

business demands shall accumulate and be granted during the next succeeding year only in accordance with NJSA 11A:6-3.

City of South Amboy Administrative Policy			
VOLUME: 3	CHAPTER: 11	# OF PAGES: 1 of 1	
SUBJECT: Workers Compensation			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Employees who suffer job related injuries and illnesses may be entitled to medical expenses, lost income and other compensation under the New Jersey Workers Compensation Act. The City of South Amboy covers workers compensation benefits (with a self-insurance plan). Any occupational injury or illness must be immediately reported to the supervisor or Department Head. All required medical treatment must be performed by a Workers Compensation Physician appointed by the City and payment for unauthorized medical treatment may not be covered pursuant to the Act.

Employees who experience job related injuries or illnesses are required to make immediate notification to their supervisor. In the event the nature of the injury or illness makes immediate notification possible the employee shall notify their supervisor as soon as their physical condition permits. Additionally, employees shall ensure prompt completion of any required injury/illness reports as required and will comply with all appropriate follow up and evaluations required by the City Workers Compensation provider.

Unless explicitly provided for in a bargaining agreement, the City of South Amboy will only pay, either directly or through its Workers' Compensation insurer, those benefits that are specifically provided for under the Workers' Compensation Act and will not supplement these benefits with additional benefits pursuant to NJSA 11A:6-8.

City of South Amboy Administrative Policy			
VOLUME: 4	CHAPTER: 1	# OF PAGES: 1 of 2	
SUBJECT: Employee Complaint Policy			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Employees who observe actions they believe to constitute, sexual harassment, or any other workplace wrongdoing should immediately report the matter to their supervisor, or, if they prefer, or do not think that the matter can be discussed with their supervisor, they should contact the Department Head or the City Administrator. Reporting of such incidents is encouraged both when an employee feels that he/ she is subject to such incidents or observes such incidents in reference to other employees. Employees should report incidents in writing but may make a verbal complaint at their discretion. If the employee has any questions about what constitutes harassment, sexual harassment, or any other workplace wrongdoing, they may ask their supervisor or one of the individuals listed above. All reports of harassment, sexual harassment, or other wrongdoing will be promptly investigated by a person who is not involved in the alleged harassment or wrongdoing.

No employee will be penalized in any way for reporting a complaint. There will be no discrimination or retaliation against any individual who files a good-faith harassment complaint, even if the investigation produces insufficient evidence to support the complaint, or if the charges cannot be proven. There will be no discrimination or retaliation against any other individual who participates in the investigation of a complaint.

If the investigation substantiates the complaint, appropriate corrective and/or disciplinary action will be swiftly pursued. Disciplinary action up to and including discharge will also be taken against individuals who make false or frivolous accusations, such as those made maliciously or recklessly. Actions taken internally to investigate and resolve harassment complaints will be conducted confidentially to the extent practicable and appropriate in order to protect the privacy of persons

involved. Any investigation may include interviews with the parties involved in the incident, and if necessary, with individuals who may have observed the incident or conduct or who have other relevant knowledge. The complaining employee will be notified of a decision at the conclusion of the investigation within a reasonable time from the date of the report an incident.

City of South Amboy Administrative Policy			
VOLUME: 4	CHAPTER: 2	# OF PAGES: 1 of 4	
SUBJECT: Employee Discipline			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: An employee may be subject to discipline for any of the following reasons:

1. Falsification of public records, including attendance and other personnel records.
2. Failure to report absence.
3. Harassment of co-workers and/or volunteers and/or visitors.
4. Theft or attempted theft of property belonging to the City of South Amboy, fellow employees, volunteers or visitors.
5. Failure to report to work day or days prior to or following a vacation, holiday and/or leave, and/or any other unauthorized day of absence.
6. Fighting on City of South Amboy property at any time.
7. Being under the influence of intoxicants (e.g., liquor) or illegal drugs (e.g., cocaine or marijuana) on City of South Amboy property and at any time during work hours.
8. Possession, sale, transfer or use of intoxicants or illegal drugs on City of South Amboy property and at any time during work hours.

9. Insubordination.

10. Entering the building without permission during non-scheduled work hours.

11. Careless waste of materials or abuse of tools, equipment or supplies.

12. Deliberate destruction or damage to City of South Amboy or suppliers' property.

13. Sleeping on the job.

14. Carrying weapons of any kind on City of South Amboy premises and/or during

work hours, unless carrying a weapon is a function of your job duties.

15. Violation of established safety and fire regulations.

16. Unscheduled absence, and chronic or excessive absence.

17. Chronic tardiness.

18. Unauthorized absence from work area, and/or roaming or loitering on the

premises, during scheduled work hours.

19. Defacing walls, bulletin boards or any other [local unit type] or supplier property.

20. Failure to perform duties, inefficiency or substandard performance.

21. Unauthorized disclosure of confidential [local unit type] information.

22. Gambling on City of South Amboy premises.

23. Horseplay, disorderly conduct and use of abusive and/or obscene language on City of South Amboy premises.
24. Deliberate delay or restriction of your work effort, and/or incitement of others to delay or restrict their work effort.
25. Conviction of a crime or disorderly persons offense.
26. Violating any City of South Amboy rules or policies.
27. Conduct unbecoming a public employee.
28. Violation of City of South Amboy policies, procedures and regulations.
29. Violation of Federal, State or City of South Amboy laws, rules, or regulations concerning drug and alcohol use and possession.
30. Misuse of public property, including motor vehicles.
31. Unauthorized use of computers, Internet, and email.
32. Other sufficient cause.

Major disciplinary action includes termination, disciplinary demotion or suspension or fine exceeding five working days. Minor discipline includes a formal, written reprimand or a suspension or fine of five working days or less. Employees who object to the terms or conditions of the discipline are entitled to a hearing under the applicable grievance procedure (and Civil Service procedure). In every case involving employee discipline, employees will be provided with an opportunity to respond to charges either verbally or in writing.

In cases of employee misconduct, the City of South Amboy believes in corrective action for the purpose of correcting undesirable behavior and preventing a recurrence of that behavior. The corrective action taken will be related to the

gravity of the situation, the number and kind of previous infractions and other circumstances. In every case, employees will be given an opportunity to state the situation from their point of view.

In order to correct undesirable behavior, supervisors and managers may utilize the following corrective tools: verbal reprimand; City Administrator review; written reprimand; suspension; fines, and, dismissal. At the discretion of City of South Amboy, action may begin at any step, and/or certain steps may be repeated or bypassed, depending on the severity and nature of the infraction and the employee's work/disciplinary record.

Neither this manual nor any other City of South Amboy guidelines, policies or practices create an employment contract. Employment with City of South Amboy may be terminated at any time with or without cause or reason by the employee or City of South Amboy.

City of South Amboy Administrative Policy			
VOLUME: 4	CHAPTER: 3	# OF PAGES: 1 of 1	
SUBJECT: Employee Evaluation			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: The Department Head will complete a written evaluation and appraisal form for every employee to measure progress and to encourage self-improvement at least once a year. The evaluation will also record additional duties performed; educational courses completed as well as a plan to correct any weak points using the Employee Counseling form. After completing the evaluation, the supervisor or Department Head will review the results with the employee and return the form(s) with the signed acknowledgement to the City Administrator. After review by the City Administrator, the form(s) are to be forwarded for inclusion in the employee's official personnel file. As a part of the evaluation, employees have the right to request a conference with the City Administrator.

City of South Amboy Administrative Policy			
VOLUME: 4	CHAPTER: 4	# OF PAGES: 1 of 2	
SUBJECT: Employee Resignation			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: An employee who intends to resign must notify the Department Head in writing at least two weeks in advance. After giving notice of resignation, employees are expected to assist their supervisor and co-employees by providing information concerning their current projects and help in the training of a replacement. During the last two weeks, the employee may not use paid time off except paid holidays. The Department Head will prepare an Employee Action form showing any pay or other money owed the employee. The City Administrator will conduct a confidential exit interview to discuss benefits including COBRA options, appropriate retirement issues and pay due. A COBRA notification letter will be sent to the employee's home address. The exit interview will also include an open discussion with the employee. On the last day of work, and prior to receiving the final paycheck, the employee must return the Employee Identification Card, all keys and equipment. At this time, the employee will sign the termination memo designating all money owed and this memo will be retained in the official personnel file.

City of South Amboy Administrative Policy			
VOLUME: 4	CHAPTER: 5	# OF PAGES: 1 of 2	
SUBJECT: General Anti-Harassment Policy			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: It is the City of South Amboy’s policy to prohibit harassment of an employee by another employee, management representative, supplier, volunteer, or business invitee on the basis of actual or perceived sex, race, creed, color, religion, national origin, ancestry, age, marital or political status, affectional or sexual orientation, domestic partnership status, civil union status, atypical heredity, cellular or blood trait, genetic information, disability (including AIDS or HIV infection), gender identity or expression, liability for service in the United States armed forces, and/or any other characteristic protected by law. Harassment of non-employees by our employees is also prohibited. While it is not easy to define precisely what harassment is, it includes slurs, epithets, threats, derogatory comments, unwelcome jokes, teasing, caricatures or representations of persons using electronically or physically altered photos, drawings, or images, and other similar verbal written, printed or physical conduct.

If an employee is witness to or believes to have experienced harassment, immediate notification of the supervisor or other appropriate person should take place. See the Employee Complaint Policy.

Harassment of any employees, in connection with their work, by non-employees may also be a violation of this policy. Any employee who experiences harassment by a non-employee, or who observes harassment of an employee by a non-employee should report such harassment to the supervisor. Appropriate action will be taken against any non-employee.

Notification of appropriate personnel of any harassment problem is essential to the success of this policy and the City generally. The City of South Amboy cannot

resolve a harassment problem unless it knows about it. Therefore, it is the responsibility of all employees to bring those kinds of problems to attention of the appropriate officials so that steps are taken to correct them.

Violation of this harassment policy will subject employees to disciplinary action, up to and including immediate discharge.

City of South Amboy Administrative Policy			
VOLUME: 4	CHAPTER: 6	# OF PAGES: 1 of 1	
SUBJECT: Employee Grievance Policy			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: A grievance is any formal dispute concerning the interpretation, application and enforcement of any personnel policy or procedure of the City of South Amboy. Grievances from union employees will be handled pursuant to the terms of the applicable bargaining unit agreement. All grievances from non-union employees must be presented within five working days after arising and failure to report a grievance within such time shall be deemed as a waiver of the grievance. In the event of a settlement or ruling that results in a determination of monetary liability, such liability shall not exceed more than thirty working days prior to the date the grievance was first presented in writing.

1. **Step One:** Any employee or group of employees with a grievance shall verbally communicate the grievance to the supervisor or Department Head who will discuss the matter with the City Administrator. The supervisor or Department Head will communicate the decision to the employee within two working days.
2. **Step Two:** If the employee is not satisfied with the decision, the employee must submit a written grievance to the City Administrator detailing the facts and the relief requested. The decision in step one will be deemed final if the employee fails to submit a written grievance within five days working days of the step one decision. After consulting the Labor Counsel as appropriate, the City Administrator will render a written decision to the employee within five working days after receipt of the written grievance.

These limitations do not apply to employee complaints made under the General Anti- Harassment Policy, the Anti-Sexual Harassment Policy or the Whistle Blower Policy.

City of South Amboy Administrative Policy			
VOLUME: 4	CHAPTER: 7	# OF PAGES: 1 of 2	
SUBJECT: Non-Discrimination			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: As a public entity the City of South Amboy is committed to compliance with applicable Federal and State laws, regulations, and guidelines that ensure fairness and equity in employment.

The City of South Amboy is committed to the principle of equal employment opportunity and anti-discrimination pursuant to Title VII of the 1964 Civil Rights Act as amended by the Equal Opportunity Act of 1972 and the New Jersey Law Against Discrimination (LAD). Under no circumstances will the City of South Amboy discriminate on the basis of sex, race, creed, color, religion, national origin, ancestry, age, marital or political status, affectional or sexual orientation, domestic partnership status, civil union status, atypical heredity, cellular or blood trait, genetic information, disability (including AIDS or HIV infection), liability for service in the United States armed forces, gender identity or expression and/or any other characteristic protected by law.

Decisions regarding the hiring, promotion, transfer, demotion or termination are based solely on the qualifications and performance of the employee or prospective employee. If any employee or prospective employee feels they have been treated unfairly, they have the right to address their concern with their supervisor, or if they prefer their Department Head, City Administrator, the Personnel Officer or the Labor Counsel.

In compliance with the Americans with Disabilities Act, the ADA Amendments Act and the New Jersey Law Against Discrimination, the City of South Amboy does not discriminate based on disability. The City of South Amboy will endeavor to make every work environment handicap assessable and all future construction and renovation of facilities will be in accordance with applicable barrier-free Federal and State regulations

and the Americans with Disabilities Act Accessibility Guidelines, as well as the ADA Amendments Act.

It is the policy of the City of South Amboy to comply with all relevant and applicable provisions of the Americans with Disabilities Act, the ADA Amendments Act and the New Jersey Law Against Discrimination. We will not discriminate against any employee or job applicant with respect to any terms, conditions, or privileges of employment on the basis of a known or perceived disability. We will also make reasonable accommodations to known physical or mental limitations of all employees and applicants with disabilities, provided that the individual is otherwise qualified to safely perform the essential functions of the job and also provided that the accommodation does not impose undue hardship on the City of South Amboy.

The City Administrator shall engage in an interactive dialogue with disabled employees and prospective employees to identify reasonable accommodations. All decisions with regard to reasonable accommodation shall be made by the City Administrator. Employees who are assigned to a new position as a reasonable accommodation will receive the salary for their new position. The Americans with Disabilities Act does not require the City of South Amboy to offer permanent “light duty”, relocate essential job functions, or provide personal use items such as eyeglasses, hearing aids, wheelchairs, etc.

Employees should also offer assistance, to the extent possible, to any member of the public who requests or needs an accommodation when visiting City of South Amboy facilities. Any questions concerning proper assistance should be directed to City Administrator.

City of South Amboy Administrative Policy			
VOLUME: 4	CHAPTER: 8	# OF PAGES: 1 of 2	
SUBJECT: Customer Interaction/Satisfaction			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

PURPOSE: To establish general guidelines when interacting with the public as part of City employment

POLICY: All City residents deserve and should expect the highest degree of customer satisfaction that can be provided. The employees of the City are tasked with providing the highest levels of customer service at all times within their capabilities. Those personnel who by virtue of their job assignment have regular contact with residents are required to provide a nurturing and safe environment through positive personal interaction, civility, and the practical aspects of the day to day operations of all City services. It is essential that the services offered are reliable and accessible.

It is important to remember that both Seniors and Youth are vulnerable residents and often require support not needed by the rest of the population. In order to effectively interact with and provide these services to Seniors and Youth it is essential that employees take the time to be kind, outgoing, and cheerful, adjust speech volumes and delivery to accommodate each resident's needs, and to keep in mind that employees should always strive to represent the City in the best possible manner. This manner of communication should be used by all City employees in dealing with the public, co-workers, and vendors.

When seeking the answer to a question a direct answer should always be given. With the realization that sometimes requests for service cannot be accommodated it is important to provide an explanation as to why the service cannot be provided. Every effort should be made to ensure that in an event that the City cannot provide

a requested service that the resident is left with a reasonable understanding of why the service cannot be provided.

Not everyone will have an adequate answer to every question or request for services. In that event Employees should refer the requesting resident to their supervisor or another person in City Government who can answer their questions or arrange for the provision of that service.

City of South Amboy Administrative Policy			
VOLUME: 4	CHAPTER: 9	# OF PAGES: 1 of 2	
SUBJECT: Anti-Sexual Harassment Policy			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date:		Reviewed/Revised: November 6, 2019	

POLICY: It is the City's policy to prohibit sexual harassment of an employee by another employee, management representative, supplier, volunteer, or business invitee. The City of South Amboy prohibits sexual harassment from occurring in the workplace or at any other location at which City of South Amboy sponsored activity takes place. Sexual harassment of non-employees by our employees is also prohibited. The purpose of this policy is not to regulate personal morality or to encroach upon one's personal life, but to demonstrate a strong commitment to maintaining a workplace free of sexual harassment.

Unwelcome sexual advances, requests for sexual favors and other verbal, physical or visual conduct of a sexual nature constitute harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for an employment decision affecting the individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Regarding unwelcome sexual advances toward non-employees, requests for sexual favors and other verbal, physical or visual conduct of a sexual nature constitute harassment when:

- Submission to such conduct is made either explicitly or implicitly in exchange for a benefit;
- Submission to or rejection of such conduct by an individual is used as the basis for a decision affecting the individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's activities or creating an intimidating, hostile or offensive environment.

Sexual harassment may include unwanted sexual advances; offering employment benefits in exchange for sexual favors; visual conduct (leering, making sexual gestures, displaying of sexually suggestive objects or pictures, cartoons or posters); verbal sexual advances, propositions or requests; verbal abuse of a sexual nature; graphic verbal commentaries about an individual's body; sexually degrading words used to describe an individual; suggestive or obscene letters, caricatures or representations of persons using electronically or physically altered photos, drawings, or images; notes or invitations; and/or, physical conduct (touching, assault, impeding or blocking movements).

If an employee is witness to or believes that the employee has experienced sexual harassment, they must immediately notify their supervisor or other appropriate person. See the Employee Complaint Policy (pg. 14).

Harassment of City of South Amboy employees, in connection with their work, by non-employees may also be a violation of this policy. Any employee who experiences harassment by a non-employee, or who observes harassment of an employee by a non-employee should report such harassment to their supervisor. Appropriate action will be taken against any non-employee.

Notification by employee to appropriate personnel of any harassment problem is essential to the success of this policy and the City of South Amboy generally. The City of South Amboy cannot resolve a harassment problem unless it is reported. Therefore, it is the responsibility of all employees to bring those kinds of problems to the attention of management so that steps are necessary to correct them.

Violation of this sexual harassment policy will subject employees to disciplinary action, up to and including immediate discharge.

City of South Amboy Administrative Policy			
VOLUME: 4	CHAPTER: 10	# OF PAGES: 1 of 2	
SUBJECT: Whistleblower Policy			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

POLICY: Employees have the right under the “Conscientious Employee Protection Act (CEPA)” to complain about any activity, policy or practice that the employees reasonably believe is in violation of a law, rule, or regulation promulgated pursuant to law without fear of retaliation or reprisal. This right shall be communicated to all employees in an annual letter outlining the specific employee complaint procedure and in a posted notice. A written acknowledgement that the employee received, read, and understood this letter will be included in the employee’s official personnel file. The annual notice shall be in English and Spanish and must contain the name of the person who is designated to receive written notification of policies or practices that might violate CEPA. This right will also be communicated in the Employee Handbook. All complaints will be taken seriously and promptly investigated.

The City of South Amboy shall not take any retaliatory action or tolerate any reprisal against an employee for any of the following:

1. Disclosing or threatening to disclose to a supervisor, Department Head, the City Administrator, other official or to a public body, as defined in the Conscientious Employee Protection Act (N.J.S.A. 34:19-1 et seq.) an activity, policy or practice that the employee reasonably believes is in violation of a law, a rule or regulation promulgated pursuant to law;
2. Providing information to, or testifying before any public body conducting an investigation, hearing, an inquiry into any violation of law, or a rule or regulation promulgated pursuant to law; or

3. Objecting to, or refusing to participate in any activity, policy, or practice that the employee reasonably believes is a violation of a law, rule or regulation promulgated pursuant to law; is fraudulent or criminal; or is incompatible with a clear public policy mandate concerning the public health, safety, or welfare.

In accordance with the statute, the employee must bring the violation to the attention of the City Administrator or Supervisor. However, disclosure is not required where (1) the employee is reasonably certain that the violation is known to one or more officials; (2) where the employee reasonably fears physical harm; or (3) the situation is emergent in nature. Employees are encouraged to complain in writing using the Employee Complaint form. See Employee Complaint Policy. Under the law, the employee must give the City of South Amboy a reasonable opportunity to correct the activity, policy or practice. The administration of whistle blower complaints is not subject to the limitations in the Grievance Policy.

City of South Amboy Administrative Policy			
VOLUME: 5	CHAPTER: 1	# OF PAGES: 1 of 2	
SUBJECT: Senior/Recreation Center General Operations			
Authorized by: Glenn R. Skarzynski/City Administrator		ACCREDITATION STANDARDS:	
Effective Date: December 1, 2018		Reviewed/Revised: November 6, 2019	

PURPOSE: To establish general operational guidelines for personnel assigned to the Charles Hoffman Senior/Recreation Center

POLICY: Senior Citizen and Youth are an important segment of the City population that require nurturing and support within the capabilities of the local government. The employees of the City are tasked with providing this support in a manner consistent with good customer service. Those personnel who by virtue of their job assignment have regular contact with this population are required to provide a nurturing and safe environment through positive personal interaction, civility, and the practical aspects of the day to day operations of Senior/Youth services. It is essential that the services offered are reliable and accessible.

It is important to remember that both Seniors and Youth are vulnerable residents and often require support not needed by the rest of the population. Services necessary include but are not limited to nutritional support, transportation, mobility assistance, convenient scheduling, information, referrals, recreation, exercise, and leisure activities. In short, creating an environment that fosters socialization.

In order to effectively interact with and provide these services to Seniors and Youth it is essential that employees take the time to be kind, outgoing, and cheerful, adjust speech volumes and delivery to accommodate each client's needs, and to keep in mind that employees should always strive to represent the City in the best possible manner. By extension, this manner of communication should be used by all City employees in dealing with the public, co-workers, and vendors.

The Senior/Recreation Center is staffed from 8-4 Monday through Friday. While the Center has scheduled activities, it is required that during these hours the Center is available for clients to avail themselves of the common area to socialize with their peers. While a public facility which can host other activities, the Center is primarily for Senior Residents. As a consequence, it is not an environment suitable for visitors who are not authorized. Staff will ensure that those persons on site are either Senior Citizens, participants in a scheduled activity, Residents registering for programs, City Employees performing work, or other authorized persons. All other members of the public should not be accessing the facility.

Most of our Senior clientele experience transportation issues. The transportation program is a vital lifeline for many. As a consequence, it is critical that the City and its employees take steps to make sure that each and every Senior Citizen who requires transportation that can be accommodated by the program has easy and convenient access. In addition to the regularly scheduled trips [grocery shopping, leisure trips] the City shall continue the practice of pre-scheduling Physician appointments within a ten-mile radius of the City one week in advance.

Any time a client is utilizing City Transportation it shall be the responsibility of the Driver to ensure the safety and well-being of the client in their care. Drivers are required to monitor the environment of the bus and its surroundings to identify potential hazards to the client and take those steps reasonable and necessary to avoid injuries. Drivers should be on hand to assist clients on and off the bus and to operate the handicap lift when requested or required by a client. Drivers are required to observe and comply with all NJ Laws regarding safe vehicle operation as defined in NJSA Title 39 [NJ Motor Vehicle Law].

Scheduling is an important issue with all programs open to any part of the public. Schedules where possible should be shared one month in advance so clients can have the time to arrange their participation in advance. Where possible, short deadlines should be avoided to attract better participation. Additionally, in addition to flyers at the Center and Web Site/Social Media posts, it is mandatory that communications regarding programs be shared with each Senior Citizen complex in the City. Residents of Shoregate, McCarthy Towers, Robert Noble Manor, and Hillcrest are all eligible for City of South Amboy Programs geared toward Seniors. It is critical that the support staff at each of these residences be afforded ample opportunity to receive schedules monthly and regular updates to enable them to ensure their residents are being reached.