

RESOLUTION NO. 97-6

ADOPTING FOR THE BOROUGH OF EAST GREENVILLE, MONTGOMERY COUNTY, PENNSYLVANIA A DRUG AND ALCOHOL POLICY FOR EMPLOYEES WITH COMMERCIAL DRIVER'S LICENSES.

BE IT RESOLVED, and it is hereby resolved, by the Borough Council of the Borough of East Greenville as follows:

I. **POLICY**: East Greenville Borough has a commitment to provide a safe and healthful workplace for its employees and to ensure efficient production and services to the taxpayers. We also recognize that in order to accomplish our mission, we must implement programs that will enable us to achieve our objectives in a cost effective manner while respecting the rights of our workers.

II. **OBJECTIVES**:

A. Establish effective means to detect and deal with drug and alcohol abuse while respecting the rights of the workers. The rights of workers include the right to privacy as defined by applicable law, to fair and evenhanded treatment, and to whatever rights may exist by reason of a contract, including a labor contract, governing employment.

B. Comply with applicable state and federal law.

III. **SUBSTANCES INCLUDED IN THE TESTING POLICY**: The testing program will cover at least the following substances present in the body: alcohol, cocaine, phencyclidine (PCP), marijuana, opiates (including heroin) and amphetamines.

IV. DEPARTMENT OF TRANSPORTATION REGULATIONS

CONCERNING TESTING OF DRIVERS: The Department of Transportation (DOT) has established mandatory drug and alcohol testing regulations that affect certain of the Borough of East Greenville's drivers and driver-applicants. The Borough of East Greenville is committed to complying with these federal regulations. Accordingly, the following DOT requirements will apply to all employees with CDLs and applicants for CDL positions.

Types of Testing

A. **Pre-Employment:** All applicants for positions requiring a CDL will be tested for alcohol and drugs prior to commencing employment with the Borough of East Greenville. A driver applicant testing positive for alcohol or drugs will not be considered for employment.

B. **Random Testing:** Each year, the Borough of East Greenville will use a random process to select at least 50% of its CDL drivers, who will be tested for the use of controlled substances. Additionally, at least 25% of its CDL drivers will be randomly tested for alcohol use in the first year of this policy. Drivers selected on a random basis for testing will be required to supply a urine sample for the drug test. The alcohol test will be done by a breathalyzer machine.

C. **Reasonable Cause Testing:** Testing will be required by the Borough of East Greenville upon reasonable cause. The conduct necessitating testing, if at all feasible, shall have been witnessed by at least two supervisors. However, if only one supervisor is available, only that supervisor need witness the conduct. Each witness

must have received training in the detection by observing a person's behavior of probable drug and alcohol use.

D. **Mandatory Post-Accident Testing:** Drivers will provide urine specimens for drug testing as soon as possible after a commercial vehicle accident, but in no case later than thirty-two (32) hours after the accident. Drivers must be tested for alcohol as soon as possible after a motor vehicle accident. A driver may not consume alcohol until he has been tested.

An accident is defined as involving:

1. A fatality;
2. The driver receiving a citation under state or local law for a moving violation arising from the accident.

If, as a consequence of an accident, a driver is seriously injured and cannot provide a specimen at the time of the accident, he must provide the necessary authorization for obtaining hospital records and other documents that will indicate whether there were any controlled substances or alcohol in his system at the time of the accident.

E. **Return of Duty Testing:** If the Borough of East Greenville offers a driver reemployment after the driver has been referred to an alcohol and substance abuse professional and the driver has undergone all recommended treatment, the driver will be tested for alcohol and drugs prior to returning to duty.

F. **Follow-up Testing:** Any driver who has returned to duty after a positive alcohol or drug test will be subject to unannounced follow-up tests for a period

up to 60 months. There will be at least 6 follow-up tests for alcohol and 3 follow-up tests for drugs given during the first 12 months. All follow-up tests will be paid for by the Borough.

G. **Employee Assistance Program (EAP)**: The Borough of East Greenville will establish an Employee Assistance Program, which will include the following:

1. An educational and training component for drivers, addressing alcohol and controlled substances;
2. An education and training component for supervisory personnel, addressing alcohol and controlled substances; and
3. A written statement on file and available for inspection, outlining the Borough of East Greenville's EAP.

The EAP training program for all drivers and supervisory personnel will consist of at least sixty minutes of training. The training program will also include the following elements:

1. The effects and consequences of alcohol and/or controlled substance use on personal health, safety and the work environment;
2. The manifestations and behavioral causes that may indicate alcohol and/or controlled substance use or abuse; and
3. Documentation of training given to drivers and supervisory personnel.

H. **Notification of Test Results:** The Borough of East Greenville will notify its drivers and driver-applicants of the results of tests conducted pursuant to the DOT regulation. Drivers who test positive will also be advised specifically what drug or the amount of alcohol that was discovered.

I. **Recordkeeping:** All of the records relating to the administration and results of Borough's alcohol and drug testing program for its drivers will be maintained for a minimum period of five years, except that individual negative test results will be maintained for a minimum of twelve months.

There shall be a Medical Review Officer who is a licensed doctor of medicine or osteopathy with knowledge of drug abuse disorders and who is employed by the Borough of East Greenville to review alcohol and drug testing results in accordance with the DOT regulations. The Medical Review Officer for each subsidiary and/or division shall be the sole custodian of individual test results for that division. The Medical Review Officer shall retain the reports of individual test results for a minimum of five years.

The Borough of East Greenville shall retain in the driver's personnel medical file information indicating only the following:

1. The employee submitted to a drug and/or alcohol test;
2. The date of such test;
3. The location of such test;
4. The identity of the person or entity performing the test; and
5. Whether the test finding was "positive" or "sub-negative".

The Borough of East Greenville will also maintain an annual (calendar) year summary of the records related to the administration and results of the testing program for its drivers under the DOT regulations.

J. **Access to Test Results and Findings:** No person may obtain the individual test results retained by the Medical Review Officer, and no Medical Review Officer shall release the individual test results of any employee to any person, without first obtaining written authorization from the tested individual, unless otherwise required by law.

**V. WORK RULES CONCERNING USE, POSSESSION AND SALE
OF ALCOHOL OR ILLEGAL DRUGS ON BOROUGH'S
PROPERTY:**

A. Employees shall not use, sell, possess or receive alcohol and illegal drugs, or distribute or sell prescription drugs while on duty. Violation of these rules will subject the employee to discipline up to and including termination, subject to any applicable provisions and procedures of a collective bargaining agreement. Illicit drugs includes prescription drugs for which the employee does not have a valid prescription.

B. The Borough of East Greenville reserves the right, upon reasonable suspicion, to ask for consent to search the vehicle or personal property of any employee during working hours, or while on the Borough of East Greenville's property or designated work place.

C. Any employee refusing to consent to or cooperate with a reasonable search or investigation will be relieved of duty and removed from the work place

resulting in appropriate disciplinary action up to and including possible termination, for insubordination.

D. Prescription drugs must be kept in their original container identifying the drug, dosage, date of prescription and physician. Employees are required to notify their supervisor if taking a prescription drug that could impair their working ability or alertness.

E. Third party or contractor employees while on the Borough of East Greenville's property will also be subjected to this policy with violations resulting in removal from the premises.

VI. **RESERVATION OF RIGHTS:** The Borough of East Greenville reserves the right to add to, change, or modify this policy in its sole discretion, and to terminate any employee at any time, except as those rights are restricted by law or by any applicable collective bargaining obligation or agreement. The Borough of East Greenville accepts no liability in the event of an alleged breach of any of the policies or procedures set forth in this Policy.

The Borough of East Greenville encourages every employee and prospective employee voluntarily to comply with this policy not only for his or her own safety, but for the safety of others. Because of its importance, the Borough of East Greenville will take all necessary steps to ensure implementation of and compliance with this policy.

VII. **LIMITATIONS-SEVERABILITY:** This Policy will be limited by any applicable federal or state law or municipal ordinance, and by any applicable collec-

tive bargaining agreements. Any portion of this Policy which directly conflicts with such a collective bargaining agreement will not be implemented for that bargaining unit, but shall be severable and shall not affect the validity and enforcement of the remainder of the Policy.

VIII. **THIS IS NOT A CONTRACTUAL ARRANGEMENT:** This Policy and this document (or any accompanying document executed or delivered pursuant to or in connection with the Policy) are not intended to confer any contractual or other rights or claims in favor of the Borough of East Greenville's employee.

Any failure to implement the Policy or any part thereof, any variation, addition, or omission to the procedures set forth in the Policy shall not confer any contractual or other rights or claims in favor of the employee not otherwise conferred by law. [NOTE - Employee remains employed at-will.]

IX. **JOB APPLICANT'S TEST CONSENT:** Every applicant for a position with the Borough of East Greenville that will require his maintenance of a commercial driver's license will be required, as a condition of his employment, to execute a drug and alcohol test consent which shall be in essentially the following form:

JOB APPLICANT/DRUG/ALCOHOL TEST CONSENT

I, _____, understand that the Borough of East Greenville's policy on drug/alcohol abuse requires that all job applicants or new employees for positions requiring a CDL will be tested, and that management may request a test randomly and for "cause" for the presence of alcohol/drugs in my body. I acknowledge that a confirmed positive test may cause me to be not hired or to be removed from the payroll and subject to discipline up to and including discharge or with a recommendation to attend a drug/alcohol rehabilitation program. I fully understand that if I should refuse to take the test, I will not be hired or could be suspended from my job without pay or terminated for insubordination. I also understand that the test results will be kept in confidence and handled by authorized management personnel.

I hereby consent () or refuse () to take the drug/alcohol test.

I acknowledge that this document (or any accompanying document executed or delivered pursuant to or in connection with the Policy) is not intended to confer any contractual or other rights or claims in my favor [and that I remain employed at will].

DATE _____ SIGNED _____
Applicant

DATE _____ SIGNED _____
Witness

X. **EFFECTIVE DATE:** The policy and procedures set forth herein shall become effective on the date of the adoption thereof.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand and affixed the seal of the Local Government Unit this 5TH day of MAY, 1997.

BOROUGH OF EAST GREENVILLE

By: Kevin T. Lehart
President of Council

ATTEST:

Donald Hoff
Secretary of Council

APPROVED by the Mayor of the Borough of East Greenville this 5TH day of MAY, 1997.

William Thomas
Mayor