

## RESOLUTION NO. 2001-06

A RESOLUTION TO INCORPORATE THE FEDERAL DEPARTMENT OF TRANSPORTATION'S 1994 FINAL RULES FOR CONTROLLED SUBSTANCES AND ALCOHOL TESTING UPDATING THE OMNIBUS TRANSPORTATION EMPLOYEE TESTING ACT OF 1991 INTO EXISTING PERSONNEL POLICIES AND TO AMEND ANY PERSONNEL POLICY PROVIDING FOR CONDITIONS OF EMPLOYMENT; AND FOR OTHER PURPOSES.

**WHEREAS**, pursuant to Congressional mandate, the U.S. Department of Transportation has handed down in 1994 Final Rules for Controlled Substances and Alcohol Testing (herein under called the Rules), which update the Omnibus Transportation Employee Testing Act of 1991; and

**WHEREAS**, all employees occupying positions which require a Commercial Driver's License in order to carry out the duties of their position will now be subject to the Rules, including those for drug and alcohol testing, effective January 1, 1996, and

**WHEREAS**, the City Council of Cherokee Village is committed to maintaining a safe workplace for its employees, and users of the public highways that is free from illegal drug use and the misuse of alcohol, and

**NOW THEREFORE**, be it RESOLVED by the City Council, with the concurrence of the Mayor:

1. That all personnel policies of the City of Cherokee Village are hereby revised and amended to incorporate the 1994 DOT Final Rules. A copy of said Rules is attached hereto and by reference is incorporated herein in its entirety as if restated word for word.
2. That this resolution specifically amends any personnel policy providing for conditions of employment for employees whose duties require them to maintain a Commercial Driver's License in order to lawfully carry out their duties.
3. Any Resolution, Rule, Regulation or part of any Resolution, Rule, Regulation now in effect which conflicts with the Rules is hereby repealed.
4. The Mayor is hereby directed to establish procedures to ensure compliance with the Rules, including the assignment of the Street Superintendent as the designated representative responsible for the execution of the procedures.
5. Any laboratory, medical review officer, substance abuse professional or any other professional who receives payment for testing, evaluating, record keeping, or other services mandated by the Rules must be qualified according to the Rules and must perform such services in conformance with 49 CFR Part 40 and Part 382.
6. Drug and alcohol testing will be administered to those employees mandated by the Rules, in the circumstances and in the manner mandated by the Rules.

7. The penalty for refusal to take a mandated test for drugs or alcohol is immediate discharge.
8. The penalty for a positive drug test result, once the time limit for requesting a second test of a split sample has expired, or upon receipt of a positive drug test result from the second test, is immediate discharge.
9. The penalty for a positive alcohol test result is immediate discharge.
10. Employees whose initial drug test results are positive and who request a test of the second portion of the split sample will be suspended without pay until such time as the Street Superintendent receives the results of the second (split sample) test. Such second test will be at the employee's expense.
11. A negative result from the second (split sample) drug test will render the first test invalid and the employee will be reinstated with back pay and reimbursement for the costs of the second test.
12. An employee suspected of unlawful use of drugs or abuse of alcohol while on duty as established by the Rules, or who is involved in an accident as defined in 49 CFR 390.4 (and receives a citation for a moving traffic violation in this section) by the Rules, shall be suspended immediately with pay until the results of the drug or alcohol test are received by the Street Superintendent.
13. If any provision of this Resolution is held invalid by a court of law or subsequent legislative action, such holding shall in no way affect the validity of the remaining provisions or sections of this Resolution, which shall remain in full force and effect.
14. The need to adopt the Department of Transportation's 1994 Final Rules on Drug and Alcohol Testing effective January 1, 1996, is necessary for the effective, efficient, and safe operation of the City of Cherokee Village and to protect the health and welfare of its citizens who travel the streets and highways, and its employees in the workplace.

PASSED AND APPROVED BY THE CHEROKEE VILLAGE CITY COUNCIL.

DATED: July 9, 2001

APPROVED: Marjorie A. Rogers  
Marjorie A. Rogers, Mayor

ATTEST: Susan E. Maynard  
Susan E. Maynard, Clerk/Treasurer