

**MINUTES FROM A REGULAR MEETING OF THE
COUNCIL OF MUSCLE SHOALS, ALABAMA, HELD**

February 21, 2011

The Council of Muscle Shoals, Alabama met at the City Hall in said City at 6:15 p.m. on the 21st day of February, 2011 being the regularly scheduled time and approved place for said meeting. The meeting was called to order by David Bradford, Mayor of the City. The invocation was given by Ricky Williams. On roll call the following members were found to be present or absent, as indicated:

PRESENT: JOE PAMPINTO, NEAL WILLIS, JERRY KNIGHT GRISSOM
 JAMES HOLLAND, ALLEN NOLES, DAVID H. BRADFORD
ABSENT: NONE

Richard Williams, City Clerk, was present and kept the minutes of the meeting.

David Bradford, Mayor of the City, presided at the meeting and declared that a quorum was present and that the meeting was convened and opened for the purposes of transaction of business.

Upon motion duly made by Council Member Holland seconded by Council Member Pampinto and unanimously adopted, the Council waived the reading of the minutes of the previously held regular meeting and work session of February 7, 2011 and work session of February 14, 2011 and approved the minutes as written.

Mayor Bradford announced that the next item of business was consideration of a resolution to approve tax abatements for the addition of a second manufacturing facility for North American Lighting.

Council Member Pampinto introduced the following resolution which was presented in the meeting and moved for suspension of the rules and immediate consideration:

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2485 - 11

WHEREAS, this Resolution is made this 21st day of February 2011 (the Effective Date) by The City Council of Muscle Shoals, Alabama, (the Granting Authority) to grant a tax abatement for North American Lighting, Inc. (the Company).

WHEREAS, the Company has announced plans for a major addition at its facility; that being, the construction of an approximate 200,000-square-foot manufacturing facility and the purchase and installation of manufacturing machinery and other personal property for new and expanding business (the Project), located at 100 Counts Drive, Muscle Shoals, Colbert County,

Alabama, within the jurisdiction of the Granting Authority; and

WHEREAS, pursuant to the Tax Incentive Reform Act of 1992 (Section 40-9B-1 et seq., **Code of Alabama 1975**, as amended by Alabama Act No. 2009-722) (the Act), the Company has requested from the Granting Authority an abatement of all state and local noneducational property taxes and all construction-related transaction taxes, except those construction-related transaction taxes levied for educational purposes or for capital improvements for education and except the 0.5% general sales and use taxes levied by Colbert County, which pursuant to Alabama Act No. 2007-351 cannot be abated; and

WHEREAS, the Company has requested that the abatement of state and local noneducational property taxes be extended for a period of ten (10) years, in accordance with the Act; and

WHEREAS, the Granting Authority has considered the request of the Company and the completed Application to Local Granting Authority for Abatement of Taxes, copy attached as Attachment One, filed with the Granting Authority by the Company in connection with its request; and

WHEREAS, the Granting Authority has found the information contained in the Company's Application to Local Granting Authority for Abatement of Taxes to be sufficient to permit the Granting Authority to make a reasonable cost/benefit analysis of the proposed project, copy attached as Attachment Two, pages 1 and 2, and to determine the economic benefits to the community; and

WHEREAS, the Project will involve an investment of approximately \$34,823,449.00, which consists of the construction of an approximate 200,000-square-foot manufacturing facility, \$12,500,000.00 of which \$8,125,000.00 is budgeted for materials; purchase of new manufacturing machinery, \$21,457,349.00, plus labor, engineering, and installation of \$357,900.00; transfer of existing personal property to the Muscle Shoals, Colbert County, Alabama, facility, \$31,000.00; and, purchase of other new personal property, \$477,200.00; and

WHEREAS, the Company is duly qualified to do business in the State of Alabama and has power to enter into and to perform and observe the agreements and covenants on its part contained in the Tax Abatement Agreement; and

WHEREAS, the Granting Authority represents and warrants to the Company that it has power under that constitution and laws of the State of Alabama, including particularly the provisions of the Act, to carry out provisions of the Tax Abatement Agreement;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Muscle Shoals, Alabama, the Granting Authority, as follows:

Section 1. Approval is hereby given to the application of the Company and abatement is hereby granted of all state and local noneducational property taxes and all construction-related transaction taxes, except those construction-related transaction taxes levied for educational purposes or for capital improvements for education, as the same may apply to the fullest extent permitted by the Tax Incentive Reform Act of 1992 (Section 40-9B-1 et seq., **Code of Alabama 1975**, as amended by Alabama Act No. 2009-722), and except the 0.5% general sales and use taxes levied by Colbert County, which pursuant to Alabama Act No. 2007-351 cannot be abated.

Section 2. The period of abatement for the noneducational property taxes shall extend for a period of ten (10) years measured as provided in Section 40-9B-3(12) of the Act, unless the company ceases operation for which these property tax abatements are granted. Should the company cease operation the abatements granted herein are considered null and void.

Section 3. The governing body of the Granting Authority is authorized to enter into a Tax Abatement Agreement with the Company to provide for the abatement granted in Section 1.

Section 4. A certified copy of this Resolution, with the application and Tax Abatement Agreement, shall be forwarded to the Company to deliver to the appropriate local taxing authorities and to the Alabama Department of Revenue in accordance with the Act.

Section 5. The governing body of the Granting Authority is authorized to take any and all actions necessary or desirable to accomplish the purpose of the foregoing of this Resolution.

Council Member Grissom seconded the motion and upon said motion being put to a vote, a roll call was had and the vote was recorded as follows:

AYES: Council Member Pampinto, Council Member Willis, Council Member Grissom, Council Member Holland, Council Member Noles, Mayor Bradford

NAYS: None

Mayor Bradford announced the vote and declared that the motion for unanimous consent for immediate consideration had been approved. Council Member Pampinto then moved that the said ordinance be finally adopted, which motion was seconded by Council Member Grissom and, upon said motion being put to a vote, a roll call on final approval was had and the vote recorded as follows:

AYES: Council Member Pampinto, Council Member Willis Council Member Grissom, Council Member Holland, Council Member Noles, Mayor Bradford

NAYS: None

Mayor Bradford thereupon declared said motion carried and that the Resolution had been approved.

Mayor Bradford announced that the next item of business was consideration of a resolution to appoint two (2) members to the Muscle Shoals Electric Board.

Council Member Pampinto introduced the following resolution which was presented in the meeting and moved for its adoption:

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2486 - 11

WHEREAS, the terms of members of the Muscle Shoals Electric Board of the City of Muscle Shoals have expired and the City Council being desirous of making the necessary appointments to said board within the City;

WHEREAS, notice was given to the public of said pending vacancies and applications solicited for members to said board;

WHEREAS, the following individuals made proper application and met the requirements

for appointment, are eligible for appointment to fill the pending vacancies:

Kelvin Barnett	Raymond Howard	Frankie Tubbs Jr.
Tom Whatley	Larry "Butch" Whitehead	Thomas Wilson III

WHEREAS, Tom Whatley and Larry "Butch" Whitehead were determined to have received the best overall rankings on the City Council evaluations, and

WHEREAS, a roll call vote was had by the Mayor and City Council as follows:

Council Member Pampinto: Tom Whatley and Larry "Butch" Whitehead
 Council Member Willis: Tom Whatley and Raymond Howard
 Council Member Grissom: Tom Whatley and Larry "Butch" Whitehead
 Council Member Holland: Tom Whatley and Larry "Butch" Whitehead
 Council Member Noles: Tom Whatley and Larry "Butch" Whitehead
 Mayor Bradford: Tom Whatley and Larry "Butch" Whitehead

WHEREAS, Mayor Bradford announced that Tom Whatley and Larry "Butch" Whitehead had received a majority of the votes cast, now

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Muscle Shoals, Alabama does hereby appoint the following named persons to serve as set forth herein:

<u>APPOINTEE</u>	<u>BOARD</u>	<u>EXPIRATION OF TERM</u>
Tom Whatley	Electric Board	February 2017
Larry "Butch" Whitehead	Electric Board	February 2017

The Clerk is hereby directed to notify the above named person of their appointment and to further notify the respective board of said appointment.

Council Member Grissom seconded the motion and upon said motion being put to a vote, all voted "AYE" and "NAYS" were none.

Mayor Bradford announced that the Resolution had been approved.

Mayor Bradford announced that the next item of business was consideration of an ordinance to amend the City's drug testing policy for Non-DOT employees.

Council Member Grissom introduced the following ordinance in writing and moved for its immediate consideration:

Under the Alabama Drug-Free Workplace Act
& the City Policy

**DRUG AND ALCOHOL TESTING PROGRAM
POLICY AND PROCEDURES MANUAL**

For safety-sensitive employees, and all other covered employees.

(This is considered a City Authority Policy applicable to all employees, including those employees covered by Department of Transportation (DOT) FMCSA Regulations, for which employees the City has developed separate policies compliant with those DOT Regulations. To the extent this Policy supplements, and does not conflict with those DOT Policies and Regulations, it is applicable.)

Originally Adopted: January 8, 1996
ORDINANCE NUMBER 1162-96
Amended December 21, 1998
ORDINANCE NUMBER 1198-98
Updated and Replaced: February 21, 2011

ORDINANCE NUMBER 1431-11

This Policy is effective upon adoption, and will supersede all previous policies and statements relating to alcohol and drugs. The City retains the sole right to change, amend, or modify any term or provision of this policy without notice.

Designated Employer Representative (DER): Human Resource Director/Assistant City Clerk
Alternate DER: City Clerk/Treasurer
MRO: Howard M. Strickler, M.D.

Contents: [Alabama Drug-Free Workplace Policy](#)
[Drug Education Information](#)
[Substance Abuse Professionals](#)
[Employee Assistance Program](#)
[Notice to all Employees and Applicants](#)
[Toolkit Forms Index](#)

**THE CITY OF MUSCLE SHOALS
ALABAMA DRUG-FREE WORKPLACE POLICY**

YOUR ROLE AND RESPONSIBILITIES

DRUG-FREE WORKPLACE

The City of Muscle Shoals (the City) 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. If you have any questions you may contact the Designated Employer Representative (DER). The City's DER is the Human Resource Director/Assistant City Clerk. The Alternative DER is City Clerk/Treasurer.

While we do not wish to intrude into your private life, a personal problem like drug or alcohol abuse will affect work performance, workplace safety, and public safety. All testing is considered confidential information and will be maintained separate from personnel files, but will be subject to disclosure in any civil or administrative proceeding initiated by the employee or as otherwise provided by law or regulation. 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, and applies to any contractor working on City property. We encourage any employee suffering from a substance abuse problem to seek help. If you need help, we can direct you to the appropriate treatment program or resource.

Notice of the City's Alabama Drug-Free Workplace testing will be provided on vacancy announcement and is posted in conspicuous locations on City premises. A copy of this Policy will be kept in the DER's office and made available for review by all prospective job applicants or current employees.

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 safer, and will help your friends and co-workers get the help they need. Compliance with this policy is a condition of your continued employment. The City has developed its drug-free workplace policy in substantial compliance with *The Alabama Drug-Free Workplace Act of 1995, Ala. Code §§ 25-5-334 to 340 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 February 28, 2011, all employees are subject to testing as outlined below. Any existing policy will remain in effect until that time.

WHO DO WE TEST?

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. Safety-sensitive employees are those who discharge duties (either in their normal job classification or in times of emergency re-assignment) so fraught with risks of injury to others that even a momentary lapse of concentration can have disastrous consequences, such that the health and welfare of other employees or the public mandates environmental injury and/or significant property damage that steps be taken to ensure that the people in these positions are not under the influence of drugs or alcohol at work. Using the above criteria, the following positions have been classified by the City as safety-sensitive: **all full-time permanent positions of the City fall within the above safety-sensitive definition. Elected officials are not subject to testing under this Policy.**

APPLICABLE TO DOT COVERED EMPLOYEES

This is considered a City Authority Policy applicable to all employees, including those employees covered by Department of Transportation (DOT) FMCSA Regulations, for which employees the City has developed separate policies compliant with those DOT Regulations. To the extent this Policy supplements, and does not conflict with those DOT Policies and Regulations, it is applicable.

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. Specimens subject to testing include urine, breath, oral fluids, hair, and blood. To ensure accuracy, the procedure includes a preliminary drug screening, two highly sophisticated scientific tests including adulterant detection, and a review of non-negative results by an independent Medical Review Officer. A SAMHSA or CAP certified laboratory is used for all laboratory testing and collection procedures will be in substantial accordance with DOT drug and alcohol testing regulations (49 CFR Part 40) for urine and breath tests. All post-accident testing will be conducted in accordance with 49 CFR Part 40 procedures. A Breath Alcohol Content of 0.04 or higher is classified as a positive test. The drugs tested for may include all or some of the following: (1) Marijuana (2) Cocaine (3) Opiates (4) Amphetamines (5) Phencyclidine (PCP) and (6) Ecstasy (MDMA).

WHAT IF YOU TEST POSITIVE?

The Medical Review Officer will contact you to give you an opportunity to discuss your results before reporting them to the City as a verified positive. An employee or applicant who receives a positive confirmed test result may contest or explain the result to the MRO and within seventy-two (72) hours after notification of a positive result, may request that their specimen be tested at a second laboratory and if positive, they will be responsible for that expense and that cost may be deducted from their paycheck, depending upon the result. Testing positive on a drug or alcohol test is a serious violation of the City's Policy. Any employee who tests positive, or refuses to be tested, may be subject to appropriate disciplinary action for gross misconduct, up to and including termination, as well as disqualification from receiving unemployment compensation benefits (Alabama Code § 25-4-78) and/or worker's compensation benefits (Alabama Code § 25-5-51) if the positive test is post-accident.

EMPLOYEE DISCIPLINE

An employee who tests positive for illegal drugs is determined to be in violation of this policy, and may be terminated and/or disciplined as follows:

- (1) An employee who tests positive for an illegal controlled substance/drug may be terminated immediately.
- (2) Any employee who fails the first controlled substance test will be required to be assessed by a substance abuse professional, and is subject to immediate termination and/or discipline, to include

being suspended for not less than five (5) days without pay. An employee who does not abide by the recommendations of the S.A.P. in respect to treatment and rehabilitation will be subject to being terminated. The employee will be subject to follow up testing under a Last Change Agreement during the following twelve months. Any employee who fails a controlled substance test during the said period shall be terminated.

An employee who test positive for Alcohol is determined to be in violation of this policy, and may be terminated and/or disciplined as follows:

(1) An employee with a Breath Alcohol Concentration (BAC) of .04 or greater may be immediately suspended without pay for I week, and will be subject to increased random testing during the following twelve Months under a Last Change Agreement.

(2) Two positive tests of a BAC of .04 or greater in any consecutive twelve month period may be cause for immediate termination of employment.

(3) Any employee who is not on probation and fails to pass a D.O.T. required breath alcohol test shall be required to be assessed by a substance abuse professional. Any employee who does not abide by the requirements of the *S.A.P.* in respect to treatment and rehabilitation will be subject to termination.

(4) An employee who tests positive with a BAC of less than .04 may not be allowed to work the remainder of that day, will be issued a disciplinary letter of warning, and will be subject to increased random testing during the next twelve months. A second positive test of a BAC of less than .04 in any consecutive twelve month period may result in immediate suspension of 3 days without pay.

(5) Three positive tests of a BAC of less than .04 in any consecutive twelve month period may be cause for immediate termination of employment.

(6) No employee tested for alcohol under this policy who is found to have an alcohol concentration of .02 or greater but less than .04 shall perform or continue to perform safety-sensitive functions, including driving a commercial motor vehicle or other motor vehicle until the next scheduled workday, but not less than 24 hours after the test.

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 provided or required safety equipment, failure to follow safety guidelines, or removal (or disabling) of a safety guard will be considered serious misconduct and may disqualify you from receiving worker's compensation benefits.

WHAT ABOUT IMPAIRING EFFECT MEDICATIONS?

Any employee working in a safety-sensitive position is required, as a safety rule, to pre-duty disclosure that they are taking ANY impairing affect prescription or over the counter medications which may have an effect on performance of safety-sensitive duties. If the fact that the employee is taking an impairing effect medication is not disclosed pre-duty by a safety-sensitive employee and the employee tests positive or is determined by the MRO to be a potential safety risk due to a medication, that employee will be subject to discipline, up to and including termination for violation of this safety rule. If disclosure is made, prior to being called for testing, the Company reserves the right to send the employee for a Fitness for Duty evaluation to evaluate the medication 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 medication(s) which they are taking, providing the doctor a copy of their job description, and having the doctor render an opinion on the safety related risks. The employee need not disclose to the Company the medication or medical condition involved to fulfill the disclosure obligation of this safety policy. All information provided will be kept separate from personnel files and in a confidential manner. The MRO will make the final determination on the safety related risks of any particular medication. Note: *safety-sensitive employees are those employees who discharge duties so fraught with risks of injury to self or others, environmental injury and/or property damage that even a momentary lapse of attention can have disastrous consequences.*

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 would be true if you attempted to substitute a specimen. Any employee who is found to have violated this Policy may be subject to appropriate disciplinary action, up to and including termination, worker's compensation and unemployment compensation disqualification in Alabama.

DRUG EDUCATIONAL INFORMATION

Attached to this Policy you will find drug educational information to assist you in recognizing the impairing effects of drug use, and will be posted in the office of the DER. The City will conduct at least two one-hour employee education sessions and two (2) hours of 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 proper treatment providers.

WHAT IF YOU HAVE A SUBSTANCE ABUSE PROBLEM?

Our Policy encourages any employee with a drug or alcohol problem to voluntarily and confidentially seek help. 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 any resource on the Substance Abuse Resource attached to this Policy.

Counseling and rehabilitation for alcohol or substance abuse is available through the health and welfare benefit program for employees, *only to the extent of the current benefits package*. The City will assume no direct financial responsibility for counseling or rehabilitation costs of an employee. 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.

The Mayor will be advised of employees having substance abuse problems in any safety-sensitive positions. This discussion will be kept confidential and will have no influence on appraising an employee's work performance. Work performance alone, not the fact that an employee seeks treatment, is to be the basis of all performance evaluations.

At the City's discretion, an employee may be granted medical leave to undertake either drug or alcohol rehabilitation treatment in accordance with the City's short-term disability policy. Such employee must cooperate fully and will not be permitted to return to work until a satisfactory release from the treatment program is presented to the Personnel Director certifying that the employee is capable of returning to work and has met the requirements of the program to date. An employee who undergoes treatment under this policy will be required to sign and comply with the substance abuse commitment letter. Upon return to work, such employee will be subject to random testing to verify recovery from substance abuse and failure to take or pass a random test will result in termination of employment.

WHY AND WHEN DO WE TEST?

(i) Pre-employment: Substance screening or testing will be performed on all final applicants in safety-sensitive positions as a condition of their employment.

(ii) Routine Fitness for Duty: Employees in safety-sensitive positions will be required to submit to a drug test as part of a Routine Fitness for Duty examination.

(iii) Random: For employees in safety-sensitive positions, drug and/or alcohol testing is done without prior notice with equal probability of selection.

(iv) Reasonable Suspicion: All employees will be asked to submit to a drug and/or alcohol test if reasonable suspicion exists indicating that the employee is under the influence of illegal drugs or alcohol, or exhibits behavior reflecting abuse. Reasonable suspicion means a basis for forming a belief based on specific facts and rational inferences drawn from those facts. If it is determined that there is a reasonable suspicion to suspect an employee of being under the influence of drugs and/or alcohol, the employee shall be informed of the suspicions. The employee shall immediately be subject to a drug and/or alcohol test. The employee shall not be allowed to work until test results indicating the employee's system is clear of illegal drugs and/or alcohol is received. Should the employee test negative for the presence of any illegal drugs and/or alcohol the City will compensate the employee for any work time the employee lost while waiting for the test results and will be considered on administrative leave.

(v) Post-Accident: (1) If an employee while on City premises, engaged in City business, or while operating City equipment, is involved in any accident which results in (a) the death of a human being; or (b) bodily injury to a person, including the employee, who as a result of the injury receives medical treatment away from the scene of the accident; or (c) that information is received that the employee caused or contributed to the accident.

(vi) Post-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 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 conducted at least once a year on a random, unannounced basis, and continue for at least twenty-four (24) months from the return-to-work date. Last chance opportunity following a positive drug test is within the sole discretion of the City and based upon a number of factors.

POLICY PROHIBITIONS

Employees and applicants are strictly prohibited from engaging in the following conduct:

(1) With respect to illegal drugs, employees and applicants violate this Policy by engaging in the following conduct, whether or not during work time or on City premises or property and are subject to discipline up to and including discharge, or rejection of the application for employment:

- a. Testing positive in a confirmed drug or alcohol 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 on City premises or property, including City-owned or leased vehicles, or vehicles used for City purposes, or refusal to allow a search of such areas where drugs may be stored.
- c. Having possession of, being under the influence of, testing positive for, 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.
- e. Any employee who is either arrested, indicted, or convicted of a non-work-related drug or alcohol related violation, must report this information to the Personnel Director no later than the following work day after such arrest, indictment, or conviction. An employee who is convicted of a work-related drug or alcohol charge, where an independent City investigation finds a violation of this policy, will be subject to discipline, up to and including termination of employment. An unpaid leave of absence may be considered depending upon the severity of the situation.
- f. the extent the City, may contract with the federal government, or be the receipt of federal funds, and an employee has a conviction or plea of guilty relative to any criminal drug offense, that employee must notify City in writing of any criminal drug conviction no later than five calendar days after such conviction under the federal drug-free workplace act.
- g. Abuse of prescription drugs which includes exceeding the recommended prescribed dosage or using others' prescribed medications. Such prescriptions brought to work should remain in the original labeled container and show both the prescribing doctor's name and the prescription's expiration date.
- h. Switching, tampering with, diluting, or adulterating any specimen or sample collected under this Policy, or attempting to do so.
- i. 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 or its designee, is a violation of City 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.
- j. Failure to advise a supervisor or manager of the use of a prescription or over-the-counter drug which may impair the employee's ability to perform the essential functions of his or her job. Such prescriptions brought to work should remain in the original labeled container.
- k. 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.
- l. Where lawful, 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 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 premises or property:

- a. Bringing and/or storing (including in a desk, locker, automobile, or other repository) alcohol on City premises or property, including City-owned or leased vehicles, or vehicles used for City purposes.
- b. Having possession of, being under the influence of, testing positive for or having in one's system, alcohol.
- c. Using, consuming, transporting, distributing or attempting to distribute, manufacturing, selling, or dispensing alcohol.
- d. A conviction or plea of guilty relative to any criminal alcohol offense. All employees must notify City in writing of any criminal alcohol conviction not later than five calendar days after such conviction.
- e. Switching, tampering with, or adulterating any specimen or sample collected under this Policy, or attempting to do so.
- f. 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 or its designee, is a violation of City 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.
- g. 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 AN 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 at the City.

Council Member Noles seconded the motion and upon said motion being put to a vote, a roll call was had and the vote was recorded as follows:

AYES: Council Member Pampinto, Council Member Willis, Council Member Grissom,
Council Member Holland, Council Member Noles, Mayor Bradford

NAYS: None

Mayor Bradford announced the vote and declared that the motion for unanimous consent for immediate consideration had been approved. Council Member Grissom then moved that the said ordinance be finally adopted, which motion was seconded by Council Member Noles and, upon said motion being put to a vote, a roll call on final approval was had and the vote recorded as follows:

AYES: Council Member Pampinto, Council Member Willis Council Member Grissom,
Council Member Holland, Council Member Noles, Mayor Bradford

NAYS: None

Mayor Bradford thereupon declared said motion carried and that the Ordinance had been approved.

Mayor Bradford announced that the next item of business was consideration of an ordinance to amend the City's drug testing policy for employees covered by DOT regulations.

Council Member Noles introduced the following ordinance in writing and moved for its immediate consideration:

**U.S. Department of Transportation
(DOT)**

**Federal Motor Carrier Safety Administration
(FMCSA)**

**49 CFR PART 382
CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING POLICY
for
*The City of Muscle Shoals***

Hereafter referred to as: "*City of Muscle Shoals*" or "*the City*"

Originally Adopted: January 8, 1996
ORDINANCE NUMBER 1162-96
Amended December 21, 1998
ORDINANCE NUMBER 1198-98
Updated and Replaced: February 21, 2011

ORDINANCE NUMBER 1432-11

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 cover employees. They may be viewed at <http://www.dot.gov/ost/dapc/> 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 Muscle Shoals 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 Muscle Shoals 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; 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.

Council Member Willis seconded the motion and upon said motion being put to a vote, a roll call was had and the vote was recorded as follows:

AYES: Council Member Pampinto, Council Member Willis, Council Member Grissom,
Council Member Holland, Council Member Noles, Mayor Bradford

NAYS: None

Mayor Bradford announced the vote and declared that the motion for unanimous consent for immediate consideration had been approved. Council Member Noles then moved that the said ordinance be finally adopted, which motion was seconded by Council Member Willis and, upon said motion being put to a vote, a roll call on final approval was had and the vote recorded as follows:

AYES: Council Member Pampinto, Council Member Willis Council Member Grissom,
Council Member Holland, Council Member Noles, Mayor Bradford

NAYS: None

Mayor Bradford thereupon declared said motion carried and that the Ordinance had been approved.

There being no further business to come before the meeting, upon the motion duly made, seconded and unanimously carried, the meeting was adjourned.

CITY OF MUSCLE SHOALS, ALABAMA
a Municipal Corporation

MAYOR

COUNCIL MEMBER - PLACE ONE

COUNCIL MEMBER - PLACE TWO

COUNCIL MEMBER - PLACE THREE

COUNCIL MEMBER - PLACE FOUR

COUNCIL MEMBER - PLACE FIVE

ATTEST:

CITY CLERK