

	Town of Chapel Hill, NC Personnel Policy	Policy Number: PP 8-1 Effective Date: January 1, 2016	I. POLICY II. PURPOSE III. PROCEDURE IV. FORMS/INSTRUCTIONS V. ADDITIONAL CONTACTS VI. DEFINITIONS VII. RESPONSIBILITIES VIII. APPENDICES IX. FAQ X. SCOPE XI. RELATED INFORMATION XII. POLICY HISTORY	Approved By:  Roger L. Stancil, Town Manager
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Drug and Alcohol Free Workplace Policy

- I. POLICY** The Town of Chapel Hill is a drug and alcohol free workplace. While at work or on town premises, Town employees shall not
- Manufacture, distribute, sell, possess, or use any controlled substance or drug paraphernalia
 - Unlawfully use any prescription drug
 - Possess or use any alcoholic beverages

The Town maintains a zero tolerance position on these issues. This policy applies to all Town employees.

Town positions covered by federal regulations are subject to the US Department of Transportation (DOT) Drug and Alcohol Testing Policy in addition to this policy. The Chapel Hill Transit US DOT Drug and Alcohol Testing Policy, as well as a list of the positions it covers, is available as a supplement to this policy.

Town positions designated as “safety sensitive” are subject to additional testing and screening procedures which are authorized by and incorporated into this policy. A list of these positions can be found in Appendix B.

- II. PURPOSE** A Drug and Alcohol Free workplace supports our Town values of Safety, Equity, and Professionalism. This policy helps to create an environment where employees can perform their jobs in a safe, productive, and healthy manner. The policy provides guidance to managers, supervisors, and employees on procedures they must follow to maintain a drug and alcohol free workplace.

RESPECT **Professionalism:** We are committed to the excellence and accountability of our own performance as well as the performance of the organization. We carry out our jobs efficiently and effectively, are open to feedback about our performance and show a willingness to learn.

RESPECT **Safety:** We strive to maintain our own mental and physical well-being and the well-being of those around us. We are dedicated to a work environment that minimizes risk of injury or accident. We are also dedicated to an environment that provides for honest and courteous discussion of workplace issues without fear of repercussion.

RESPECT **Equity:** Although we may hold different roles in the organization, we all work toward the common goal of serving the Town and the Town’s residents and customers. Therefore, we seek and support policies and actions that are administered consistently and fairly to everyone regardless of rank, tenure or personal background.

Town of Chapel Hill Ordinance Section 14-40

Town of Chapel Hill Ordinance Section 14-48

III.PROCEDURE	The Director of the Human Resource Development Department is authorized to issue procedures consistent with this policy. Procedures issued by the Human Resource Development Director will be considered an appendix to this policy.						
IV.FORMS/ INSTRUCTIONS	Please see Drug and Alcohol Free Workplace Procedures.						
V.ADDITIONAL CONTACTS	Human Resource Development 919-968-2700 or HR@townofchapelhill.org Ombuds office 919-265-0806 or Ombuds@townofchapelhill.org Employee Assistance Program 1-800-326-3864						
VI.DEFINITIONS	Please see Drug and Alcohol Free Workplace Procedures.						
VII.RESPONSIBILITIES	Please see Drug and Alcohol Free Workplace Procedures.						
VIII.APPENDICIES	A. Drug and Alcohol Free Workplace Procedures						
IX. FAQ	Please see Drug and Alcohol Free Workplace Procedures.						
X. SCOPE	As of January 1, 2016, this policy replaces and supersedes any previous Town policies, supplemental policies, handbooks, or unwritten policies or practices covering the same subject. Supplemental policies in compliance with this policy are referenced in Section XI below, Related Information .						
XI. RELATED INFORMATION	<ul style="list-style-type: none"> A. Chapel Hill Transit US DOT Drug and Alcohol Testing Policy (supplemental) B. Substance Abuse Supervisors Guide C. Grievance Policy, PP 5-4 						
XII.POLICY HISTORY	<p>Original policy adopted 7/1/90. Revisions adopted in 11/92, 1995, and FY 2005, and 8/2009 with requirement by federal DOT to drug test jobs requiring Commercial Drivers' License. Additional revisions made to address Federal Transit Administration 1/2011 requirements for employees covered under Federal Transit Administration Regulations. 2016 revisions include Town-Designated Safety Sensitive positions.</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Adopted August, 1999</td> <td style="width: 50%;">Revised June 2011</td> </tr> <tr> <td>Reissued June 2008</td> <td>Revised, reissued January 2016</td> </tr> <tr> <td>Revised January 2011</td> <td></td> </tr> </table>	Adopted August, 1999	Revised June 2011	Reissued June 2008	Revised, reissued January 2016	Revised January 2011	
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	Procedures	Effective Date: January 1, 2016		 Frances Russell, Director, Human Resources Development

III. Drug And Alcohol-Free Workplace Procedures

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A. Expectation of Privacy

In order to maintain a drug and alcohol-free workplace, the Town may observe the actions of employees during work time; require employee participation in drug and alcohol testing; and search department or Town-owned items used by employees.

B. Testing Thresholds and Standards

Unless otherwise specified, the Town uses the drug and alcohol thresholds provided for in the most current versions of [US Department of Transportation Regulation 49 CFR Part 40](#) when determining whether an employee is in violation of this policy. This regulation is periodically amended and updated by US DOT.

C. Prohibited Behavior

1. Report for Duty: No employee may report for duty or remain on duty at any time there is a quantifiable presence of drugs or alcohol in the body.
2. Perform Job-Related Functions: No employee shall perform any job related function while under the influence of alcohol or drugs.
3. Safety Sensitive Functions: No employee shall perform any safety sensitive functions within twenty four (24) hours of a determination of having an alcohol concentration of .02 BAC or higher.
4. On Duty: No employee may consume alcohol or drugs while on duty.
5. On-Call: Some employees in the Town, as part of their ongoing job duties, are designated by their departments to be 'on call' during certain periods. Typically these employees receive 'on call' pay. Any employee who is officially 'on call' is in violation of this policy if he reports to work with a quantifiable presence of drugs or alcohol in his body. An 'on-call' employee must report drug or alcohol use if called to duty in order to avoid severe disciplinary action under the terms of this policy.
6. Off Duty: An employee is discouraged from ingesting alcohol or drugs to the extent that it results in appreciable impairment that might discredit the employee or the Town.
7. In Uniform: Employees shall not ingest any alcohol or drugs while in uniform or wearing any item of apparel construed as duty-related or which bears a Town or Department logo, regardless of whether the employee is on duty or off duty.
8. On-premises: Employees shall not bring or store any drugs or alcohol in any Town facility, vehicle, or work area.
 - a) Employees who are in possession of such substances as part of their ongoing job responsibilities or for training purposes will not be in violation of this policy. They should follow their department's operating practices regarding the proper handling of these substances. For example, a police officer who confiscates drugs or drug paraphernalia from an individual and transports it to enter it into evidence would not be in violation of this policy. Similarly, a solid waste collector who collects open containers of alcohol and transports to be disposed of is also not in violation of this policy.
9. Post- Accident: In certain circumstances as outlined in this policy, employees will be tested for drugs and/or alcohol after being involved in an accident that has occurred while on Town business or while operating a Town vehicle or equipment. Therefore, employees must not consume any alcohol or drugs prior to a post- accident drug and/or alcohol test.

D. Prohibited Drugs/Drug Offenses

1. Prescription Medications: The use of any controlled substance by an on-duty employee is prohibited except when prescribed by a health professional who has advised the employee that the substance does not adversely affect the employee's ability to perform job functions.
2. Over-the-counter medications: The use of any over the counter medication that may adversely affect an employees' ability to safely perform job duties is prohibited while on duty, unless the employee has advised the Town that the substance does not adversely affect the employee's ability to perform job functions.
3. Physician Authorization: Employees who are taking either prescribed or over the counter medication that might affect job performance shall provide a doctor's note indicating that the employee is
 - a) fit for duty while taking the medication and
 - b) how long the employee will be taking the medication.

The note will be kept in a secure file.

4. Drug Related Offenses- Employees who are charged and/or convicted of a controlled substance related violation under state or federal law must inform their department within five days of such charge or conviction or prior to the next scheduled work day, whichever occurs first.
5. Town's right to relieve employee of duties: Other policy provisions notwithstanding, the Town reserves the right to relieve any employee of his duties if, in the opinion of the Town, the employee presents a risk to himself or others while under the influence of any amount of alcohol or drugs.

E. Prohibited Alcohol Consumption/Alcohol Offenses

1. Use and Possession of Alcohol: All employees are prohibited from using alcohol to the degree that it affects job performance. Alcohol includes any alcoholic beverage or substance such as medication, mouthwash, food or candy in which alcohol is present. Possessing an open alcohol container while on duty, on Town property, or in a Town vehicle is a violation of this policy.
 - a) The possession of medicine containing alcohol is not prohibited when the packaging seals are unbroken.
 - b) Employees who are in possession of open containers of alcohol as part of their ongoing job responsibilities or for training purposes will not be in violation of this policy. They should follow their department's operating practices regarding the proper handling of alcohol. For example, a police officer who confiscates alcohol from an underage individual and transports it to enter it into evidence would not be in violation of this policy.

2. Alcohol Related Offenses: Employees who are charged or convicted of alcohol related violations under state or federal law must inform their supervisor or designated employer representative within five days of such charge or conviction or the next scheduled work day, whichever is less.

F. Employee Assistance

1. Counseling: Employees who need assistance in dealing with substance abuse or dependency are encouraged to voluntarily seek counseling or treatment through the Town Employee Assistance Program (EAP) or other counseling/treatment provider.
2. Voluntary Admission Prior to Testing: Voluntary admission of a substance abuse problem by an employee prior to random, reasonable suspicion, or positive test result is considered, but does not exempt an employee from, disciplinary action.
3. Participation in Employee Assistance or other Counseling Program: Participation in an EAP or other counseling or treatment program will be considered, but will not exempt an employee from disciplinary actions.

G. Required Consent for Drug and Alcohol Testing

1. Required Testing: As a condition of employment, employees and applicants are required to consent to testing for the use of drugs and to testing for the use of alcohol as specified in this policy.
2. Confidentiality: Results will be handled in a confidential manner. The Town's Medical Review Officer (MRO) or substance abuse testing professional shall report results of testing as provided by law, to the designated employer representative.

H. Employee Testing Categories/Covered Employees

The situations under which an employee covered by this policy may be required to participate in drug and/or alcohol testing are contingent upon the circumstances, reasonable suspicion, and the duties of the position the employee holds. The Town has reviewed the actual duties performed by employees in all job classifications and has classified jobs into three categories (as defined below).

1. Safety Sensitive Employees subject to Federal Regulations as well as the Town's Drug and Alcohol Free Workplace policy:
 - a) Federal Transit Administration (FTA) Covered Employees: Employees who operate Chapel Hill Transit vehicles, dispatch or control Chapel Hill Transit vehicles, or maintain Chapel Hill Transit vehicles or other equipment used in revenue service vehicles. **Please refer to Chapel Hill Transit's departmental policy for more information and a list of positions subject to FTA requirements.**

- b) Federal Motor Carrier Safety Administration (FMCSA) Covered Employees: Employees not covered by FTA regulations who operate motor vehicles requiring a commercial driver's license. **Please refer to Chapel Hill Transit's departmental policy for more information and a list of positions subject to FMCSA requirements.**
2. 'Safety- Sensitive' Employees not subject to Federal Regulations, but covered by the Town's Drug and Alcohol Free Workplace policy: Employees not covered by FTA or FMCSA, but who, as a core or essential function of their job, operate, inspect, or repair equipment or vehicles, utilize hazardous materials, or whose core duties or responsibilities directly impact the public's or employees' health and safety, or the protection of life, property, or environment **have been designated by the Town as 'Safety-Sensitive' employees.** Forensic/Evidence Technicians and all law enforcement personnel are considered 'Safety-Sensitive'. A complete list of all Town Designated 'Safety Sensitive' positions is found in Appendix B of these procedures.
3. All other Town Employees covered by the Town's Drug and Alcohol Free Workplace Policy: **All Town employees, regardless of job classification or employment status, are subject to this policy.**

I. Types of Drug Testing Conducted by the Town

1. Pre-Employment Drug and Alcohol Testing: As a condition of employment, all employees and candidates who receive a conditional offer of employment are required to consent to drug and alcohol testing as specified in this policy.
- a) Existing employees who are being considered for any safety sensitive position within the Town must be screened for drugs and alcohol as part of the employment process for the position.
- b) No employee may perform Safety-Sensitive functions before the Department has received a verified negative drug test result from the Medical Review Officer.
- c) A Safety-Sensitive employee who has been on a leave of absence for thirty (30) or more consecutive days must submit to a drug test that results in a verified negative result before returning to Safety-Sensitive duties.
2. Random Testing for Safety Sensitive Employees: All safety-sensitive employees are subject to random testing for alcohol and drugs. Groupings for Random Testing: The Town or its designee shall maintain two distinct testing pools and use a computer based program to randomly select these employees for testing. Employees in each group shall have an equal chance of being selected each time selections are made. Groups are as follows:
- Group 1: Employees occupying FTA and FMCSA positions as outlined in Chapel Hill Transit's Substance Abuse Policy.

- Group 2: Employees occupying Town Designated Safety-Sensitive Positions as outlined in [Appendix B](#).
 - a) General Testing Guidelines for Random Testing:
 - i. Once notified, selected employees must proceed immediately to the designated testing facility.
 - ii. A supervisor must escort all selected employees to the testing facility.
 - iii. The testing will be conducted periodically throughout the year, but no less than quarterly, on an unannounced basis. Random drug testing may be conducted at all times of day when Safety-Sensitive functions are performed.
 - iv. Random alcohol testing may be conducted just before, during or just after the performance of Safety-Sensitive functions.
 - v. The number of employees selected for random drug and alcohol testing each year will be in compliance with minimum annual rates established by the most current version of [Federal Regulation 49 CFR Part 40](#).
 - vi. The number of Safety-Sensitive employees selected for random drug and alcohol testing each year will be a percentage of total number of covered employees as determined by the Town Manager or his/her designee.
 - vii. Employees who self-report an acknowledged problem with drugs or alcohol may be subject to random testing for a defined period of time.
3. Reasonable Suspicion Testing for Any Employee: **Any Town employee** may be required to submit to a reasonable suspicion alcohol and/or drug test when the Town, acting through its supervisors and/or department heads, has reason to believe or suspect that an individual's ability to safely and efficiently perform his/her job is impaired
- a) Garrity Warnings Required Prior to Testing: any employee who is tested under the provisions of this policy for reasonable suspicion must be administered a 'Garrity Warning' prior to being tested for alcohol or drugs. A Garrity warning advises the employee that any information obtained by the Town during the course of testing will not be used to bring criminal charges against the employee. A supervisor must read the Garrity warning to the employee before the employee is tested. The text of the Garrity warning is available at [Appendix D](#).

- b) Conditions for Reasonable Suspicion testing: Before a supervisor can require an employee to submit to drug and/or alcohol testing, the supervisor must have reasonable suspicion, based on specific observations of the behavior, speech, appearance, body odor, or other physical indicators of the employee's impairment. These observations should be specified on the appropriate version of the **Reasonable Suspicion Checklist** as indicated below. A supervisor who has not yet completed Reasonable Suspicion Training should engage the assistance of a supervisor who has completed Reasonable Suspicion Training.

The Town has prepared the following documents to assist supervisors and managers when making reasonable suspicion determinations and to document behaviors that support reasonable suspicion drug and alcohol screening.

- [Signs and Symptoms of Drug Use or Abuse](#) (Appendix C)
- [Reasonable Suspicion Procedures](#) (FORM 8-1 A)
- [Reasonable Suspicion—Short Term Checklist](#) (FORM 8-1 B)
 - used for a specific incident that raises reasonable suspicion
- [Reasonable Suspicion—Long Term Checklist](#) (FORM 8-1 C)
 - Used to document behavior over time that leads to reasonable suspicion.

Human Resource Development partners can assist supervisors with questions about procedures and documentation.

- c) Factors or Observations that support Reasonable Suspicion Testing: Factors or observations, which will provide sufficient cause to request an employee to submit to drug or alcohol testing, include, but are not limited to, the factors listed below. Any combination of the following may constitute reasonable suspicion:

- I. Slurred speech;
- II. The odor of illegal drugs or alcohol on or about the person or his/her vehicle or worksite;
- III. Impaired movement or coordination with no other readily apparent cause;
- IV. A pattern of absenteeism or deterioration of work performance that suggests use of drugs or on duty use of alcohol;
- V. Confusion, disorientation, lack of coordination, marked personality changes, or irrational behavior;
- VI. Possession of drugs, drug paraphernalia and/or alcohol on the person, in a desk or locker or a Town assigned vehicle;
- VII. Direct observation of prohibited drug or alcohol use.

- d) Employee Placed on Leave Pending Test Results: Under departmental authority, any employee who is required to submit to a reasonable suspicion alcohol or drug test will be placed on leave pending the receipt of test results. For more information about an employee's status pending test results, see [Section K.2](#). Details about specific substances, signs and symptoms, health effects, etc. can be found in [Appendix C](#) of this policy.
4. Post –Accident Testing: Employees may be tested for the presence of drugs and alcohol after an accident occurs during work hours, while on Town property, or while using or operating Town-owned equipment and vehicles. The provisions under which an employee can be tested differ depending on the employee's designation as a safety sensitive or non-safety sensitive employee.
- a) Non-Safety Sensitive Employee Testing after an Accident: After an accident, non-Safety-Sensitive employees may only be tested based on reasonable suspicion.
- b) Safety Sensitive Employee Testing after an Accident: Safety-Sensitive Employees are required to be tested for alcohol and controlled substances following a vehicle accident where:
- i. A fatality occurs;
 - ii. The driver receives a citation under state or local law for a moving traffic violation arising from the accident AND an individual suffers a bodily injury which requires immediate medical treatment away from the scene;
 - iii. The driver receives a citation under state or local law for a moving traffic violation arising from the accident AND any vehicle involved incurs disabling damage that requires the vehicle to be towed from the scene;
 - iv. There is reasonable suspicion to believe the employee was under the influence of alcohol or drugs at the time of the accident.
- c) Garrity Warnings Required Prior to Testing: any employee who is tested under the provisions of this policy following an accident must be administered a 'Garrity Warning' prior to being tested for alcohol or drugs. A Garrity warning advises the employee that any information obtained by the Town during the course of testing will not be used to bring criminal charges against the employee. A supervisor must read the Garrity warning to the employee before the employee is tested. The text of the **Garrity warning** is available at [Appendix D](#).

- d) Employee to Notify Management of Accident: Any employee who is involved in an accident with a Town vehicle or any other vehicle while on Town business must immediately notify their management of the incident.
- e) Management to notify Safety Officer: Upon learning that an employee has been in an accident, Management should immediately notify the Town's Safety Officer and briefly provide the details of the accident, including location and any resulting injuries. Responding to individual injury or assisting others who are injured should take priority over the reporting notifications.
- f) Criminal Investigation Takes Precedence: If alcohol or a controlled substance is believed to be a contributing factor to the accident and an employee is or may be criminally charged, the criminal investigation takes priority over any administrative investigation or procedure. Supervisors should defer to the criminal investigator with regards to obtaining the necessary testing samples from the employee. Once the criminal investigator has obtained the necessary samples from the employee for the criminal investigation, then the supervisor can proceed with drug testing as outlined in this policy.
- g) Employee must Remain Available for Testing: An employee who is subject to post-accident testing must be available for testing. An employee who fails to remain readily available for testing will be considered a refusal to test.
- h) Timeframe for Post- Accident Testing: Employees must be tested for drugs within thirty-two (32) hours following an accident. Absent extenuating circumstances, alcohol tests must be conducted within two (2) hours following an accident. There are no circumstances under which an alcohol test will be conducted after eight (8) hours following an accident.
- i) If Testing Timeline is Not Met after an Accident: If post-accident tests are not performed within the designated time requirements, the supervisor must prepare a memorandum for the record stating the reason a test was not promptly administered. This memorandum must be sent to the Department Head and the Town Safety Officer. Failure by a supervisor to ensure appropriate tests are performed or to document the reason tests were not promptly administered will result in appropriate disciplinary action against the supervisor.

J. General Testing Guidelines for all Drug and Alcohol Tests

1. Consent: Before a drug or alcohol test is administered, employees and candidates will be asked to sign a Chain of Custody consent form authorizing the test and permitting the release of the results to the designated employer representative(s). All test results will be kept confidential. Disclosures without the employee's consent will be in accordance with procedures established in this policy.

2. Refusal to Test: Any employee or candidate who refuses to consent to a drug and/or alcohol test required by this policy, fails to appear for testing, fails to remain at the testing site prior to the commencement of the test, is found to have tampered with the sample or aborts or refuses to agree to the collection of the specimen before the test commences will be in violation of this policy and is subject to disciplinary action or the withdrawal of the contingent job offer. The employee or prospective employee will not be eligible for employment or promotion for a period of one year. Any of the following are considered refusal to test:
- a) Failure to complete and sign all necessary paperwork to facilitate testing or failure to cooperate with any part of the testing process.
 - b) Failure to provide photo identification at the testing location.
 - c) Failure to report to designated testing facility within 2 hours of being notified.
 - d) Intentional failure to provide enough urine, or failure to provide blood or breath to facilitate testing within 2 hours of being notified, without a valid medical explanation.
 - e) Leaving the testing facility without providing a useable sample of urine, blood, or breathe unless the facility has to close and the employee or candidate is released by the MRO (Medical Review Officer).
 - f) Failure to remain at the test site and provide a specimen once the test is underway unless a sample is taken elsewhere (on Site, etc.) or the facility closes before a sample can be collected.
 - g) Providing a tainted specimen or substituting a specimen for the employee or candidate's own.
 - h) Failure to permit the observation or monitoring of the collection of a urine specimen when required (The majority of specimens are provided in private; however, testing conducted under direct observation or monitoring may be required in limited situations.).
 - i) Failure or declination to take a second test when directed by the collector or supervisor.
 - j) Failure to undergo a medical examination or evaluation as part of the verification process as otherwise required.
 - k) Leaving the scene of an accident, without just cause, prior to submitting to a drug or alcohol test when required to do so under this policy.

K. Testing Procedures for Random, Post Accident, and Reasonable Suspicion

1. General Procedures: All post-accident, random, or reasonable suspicion testing will be scheduled by the supervisor after the Department representative and HRD have been notified.
 - a) The employee will be escorted by a supervisor to the testing location. The supervisor shall watch the employee to assure that he or she does not eat or ingest anything or that he or she does not acquire "clean" urine from another person.
 - b) Upon arrival at the testing facility, the facility staff is responsible for the collection and chain of custody procedure. The supervisor shall not be the observer or a witness to the urine collection.
 - c) Whenever a reasonable suspicion test occurs, after the specimen has been obtained, the supervisor will escort the employee home (or to some other designated destination) or obtain transportation for the employee upon the completion of the collection/screening process; the supervisor will use every reasonable means to assure the employee reaches his or her destination safely.
 - d) All drug and alcohol collection and testing will be conducted at an officially approved facility that follows State and Federal regulations. The procedures will be done in such a manner to protect the dignity of the employee, while following chain of custody procedures. Only certified laboratories will evaluate specimens.
 - e) An initial positive drug test will be confirmed by laboratory using a Gas Chromatography/Mass Spectrometry (GC/MS) test. The testing thresholds used will be those established by the Department of Health and Human Services. Only in the case of positive GC/MS will the Medical Review Officer be notified of drug use by the applicant or employee.
 - f) A confirmation test is required for alcohol breath test registering 0.02. BAC or higher and will be conducted in accordance with normal procedures of testing facility contracted for testing.
2. Status Pending Test Results
 - a) Employees selected for random drug or alcohol testing will continue to work in normal capacity pending the results of the test.
 - b) Employees tested on the basis of post-accident, reasonable suspicion, or tested because of admission of use or a confirmed report of use will be placed on leave with pay until the screening results are received.

3. Test Results

- a) Negative Results: The employee may return to work, providing there are no other job performance considerations.
- b) Positive Results: Any employee who tests positive for drugs or alcohol is considered in violation of this policy. Upon notification of a positive test result for drugs, or alcohol BAC of 0.02 or greater, or a refusal to test, the employee will be placed on leave pending the outcome of an investigation. Any resulting disciplinary actions will be administered in accordance with the Town's disciplinary process. Additional guidance based on the type of violation is outlined below.
 - i. Positive results will be reported to the Medical Review Officer, who will contact the employee to discuss and confirm the results. The MRO will contact the Town Safety Officer or Department Safety Officer who will then notify the employee's supervisor. The reports or test results may be disclosed to the tested employee, and to other Department or Town administrative officials on a strictly need to know basis.
 - ii. The employee must provide documentation of any prescription medication to the MRO upon request.
 - iii. Within 72 hours of notification of a confirmed positive drug test result, an employee or applicant may request that the original sample be sent to an approved laboratory for an additional test, at the employee's expense.
 - iv. Applicants who test positive will be disqualified from further consideration for the position.
 - v. Employees that test positive for drugs or alcohol are subject to disciplinary action, up to, and including, termination (see Personnel Actions outlined below). In the case of disciplinary actions, the employee has the rights of due process, including notification and the right to a hearing.
- c) Diluted Test Results:
 - i. When the Town is notified by the MRO that a positive drug test is diluted, the test will be treated as a verified positive test. The employee will be directed to provide another specimen for testing. The employee does not need to be observed while providing this second specimen.
 - ii. If a Town employee receives a negative diluted test result with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, the

employee must provide another specimen for testing. The MRO will direct the Department to do a second collection immediately. This must be an OBSERVED collection. The employee will be directed to report for re-testing immediately. The result of the second collection will be the test result of record. If the second collection is also negative and diluted, unless directed by the MRO to perform another observed collection, the test result will stand as negative diluted. *Please refer to the [Frequently Asked Questions for more information about this special provision.](#)*

4. Challenges to Test Results: Employees have the right to challenge a confirmed positive test result. All challenges must be made to the MRO in writing with an explanation of the reason(s) for the challenge. The testing facility divides the sample provided by the employee so that it can be re-tested. This is called a “split sample.”
 - a) Employees will be given seventy-two (72) hours to request to have the additional sample tested at the employee’s expense at a Department of Health and Human Services (DHHS) Certified laboratory of his/her choice.
 - b) If the employee requests a re-test, the split sample will be tested by Gas Chromatograph/Mass Spectrometry (GC/MS) only for the positive drug at the laboratory’s lowest limit of detection for that drug. If an employee challenges that the testing process is flawed, the Department reserves the right to conduct additional testing.
 - c) If the split sample tests negative, or for any reason cannot be re-tested, the test results are reported back to the MRO and Designated Employer Representative as a negative test result and any previous disciplinary action issued will be rescinded.
 - d) In case of negative test results, employees will not be responsible for any costs associated with the drug or alcohol test.

L. **Personnel Actions for Violation of Alcohol/Drug Policy**

1. Town Actions after Violation: Any employee found to have violated the alcohol and/or drug prohibitions specified in this policy will immediately be removed from the performance of duties, placed on suspension without pay, referred for evaluation through EAP, and subject to disciplinary action, up to and including termination.
2. EAP Referral: When such a referral is made by the Town to EAP, participation is mandatory; failure to participate and comply may result in termination.
3. Disciplinary Process: All disciplinary actions will be administered in accordance with the Town’s disciplinary process, which includes notice to the employee of the test results and a right to be heard.

4. Disciplinary Action: Severe Disciplinary action, up to and including termination, is a consequence of violating this policy.
- a) Factors considered in Disciplinary Decisions: Some factors used in determining the appropriate disciplinary action for a drug/ alcohol violation are:
- i. Any damage to persons or property
 - ii. The employee's past work performance
 - iii. The extent that such actions impair an employee's ability to fulfill the responsibilities of his/her job
 - iv. The potential liability to the Town for the employee's actions, and/or the actual or potential impact that such actions bring discredit upon the Town and/or the Department.
5. Self-Reporting prior to Testing: Employees who come forward and report their substance abuse problem before being tested for any reason may be permitted to continue in employment, depending on the circumstances of their situation. If continued employment is allowed, the employee is required to successfully complete a drug-abuse assistance program and a return-to-duty drug and alcohol testing, and agree to participate in follow-up testing for a period of at least (1) year as a condition of employment. The employee must be tested at least six times during that one year period.

M. Employee Awareness and Training

All employees will receive information about the Town's Drug and Alcohol Free Workplace policy.

1. New Employee Orientation: During their initial employee orientation, all new employees will be notified about the following:
 - a) Expectations and consequences of violations of this policy;
 - b) The dangers of drug and alcohol abuse in the workplace; and
 - c) Available drug counseling, rehabilitation and employee assistance programs.
2. Ongoing and Refresher Training for Current Employees: Departments may also offer or require attendance at additional training or refresher training for any employees. Additional awareness aids and resources, such as posters or brochures, will also be available and/or posted throughout the respective departments.
3. Supervisor Training: In addition to the policy awareness and training for all departmental employees, every supervisor is initially required to undergo additional training on the physical, behavioral and performance indicators of probable alcohol/drug use. Attendance at this training is mandatory before a

supervisor is authorized to make a determination to require a reasonable suspicion drug or alcohol test by an employee. After the initial training, supervisors are required to attend refresher training as needed.

IV. Forms

- A. [FORM 8-1 A Reasonable Suspicion Procedures](#)
- B. [FORM 8-1 B Reasonable Suspicion—Short-Term Checklist](#)
- C. [FORM 8-1 C Reasonable Suspicion—Long-Term Checklist](#)

V. Additional Contacts

- 1. Office of Human Resource Development hr@townofchapelhill.org 919-968-2700
- 2. Office of the Ombuds ombuds@townofchapelhill.org 919-265-0806
- 3. Employee Assistance Program 1-800-326-3864

VI. Definitions

Accident: Any occurrence involving a motor vehicle or Town equipment that results in a fatality; serious bodily injury to a person who, as a result of the injury; is transported and/or receives medical treatment from a medical professional away from the scene; or with one or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle(s) to be transported away from the scene by a tow truck or other vehicle.

Alcohol: The intoxicating agent in fermented beverages or medicines. Also includes low molecular weight alcohols, including methyl and isopropyl alcohol.

Alcohol and Substance Abuse: Any use of illegal drugs or controlled prescription drugs obtained unlawfully; or excessive use of lawfully obtained prescription drugs, over the counter drugs or alcohol when such use substantially impairs job performance, alters work behavior, and/or creates a risk to the health and/or safety of the employee or others.

Alcohol Test: Testing for the presence of alcohol in the body as determined through the use of a breath alcohol test, or blood screening.

Canceled Drug Test: A test result in which the Medical Review Officer (MRO) finds insufficient information or inconsistent procedures with which to make a determination.

Commercial Motor Vehicle: A motor vehicle that (1) has a gross combination weight rating of more than 26,000 pounds alone or inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; (2) is designed to transport sixteen (16) or more passengers, including the driver; or (3) is any size transporting hazardous materials requiring placards.

Commercial Driver's License (CDL): Under the commercial motor vehicle act, ensures drivers of large trucks and buses are qualified to safely operate those vehicles.

Disabling Damage: Damage to a vehicle which requires the vehicle to be towed from the accident scene or circumstances that present the risk of causing further damage if the vehicle is driven away from the scene. Disabling damage does not include the following: (1) damage which can be remedied temporarily at the scene of accident without special tools or parts; (2) tire disablement without other damage even if no spare tire is available; (3) or damage to headlights, tail lights, turn signals, horn, or windshield wipers, that makes them inoperative.

DOT: United States Department of Transportation

Drug: A controlled substance as defined in North Carolina General Statute 90-87 (5) or a metabolite thereof.

Drug Test and Drug Screening: The chemical analysis of an employee's urine or blood to detect any of the following:

1. Alcohol
2. 6 Acetyl Morphine
3. Amphetamines
4. Barbiturates
5. Benzodiazepines
6. Cannabinoids
7. Cocaine
8. MDMA
9. Methaqualone
10. Opiates
11. Phencyclidine
12. Propoxyphene

Other drugs that may be determined to reduce work efficiency as described in Section III, C., and Prohibited Drugs/Drug Offenses, outlined later in this Policy.

Employee Assistance Program (EAP): Counseling services available to Town employees to provide assistance, counseling, and referral for employees for emotional or relational concerns which could affect an employee's ability to do his/her job, as well as the quality of his/her life. Drug and alcohol counseling and referrals are among those services provided.

Failure of Drug and/or Alcohol Test: A verified positive drug test result, or an alcohol test 0.020 or greater.

Garrity Warning: An advisement of rights usually administered in internal investigations. The Garrity warning advises employees of their criminal and administrative liability for any statements they may make. Employees don't have the right to remain silent in an administrative investigation after being apprised of their Garrity warnings. However, any statements compelled by their employer cannot be used against them in a subsequent criminal investigation or proceeding.

Medical Review Officer (MRO): A licensed physician, who is responsible for receiving laboratory results generated by the Department's drug testing program, has knowledge of substance disorders, and has appropriate medical training to interpret and evaluate laboratory test results.

Negative Drug Test: A test result that does not show presence of drugs at a level specified to be a positive test.

Qualified negative results: A drug test in which the lab result is consistent with legal drug use.

On Call: An employee who is subject to being called back to report immediately to work and is entitled to receive On-Call pay.

On Duty: An employee who is at the workplace, performing job duties, or during any other period of time for which he or she is entitled to be paid by the Town of Chapel Hill

Other Substance: Any substance that has the potential to impair appreciably the mental or physical function of a person.

Positive Alcohol Test: The presence of alcohol in the employee's system at a level 00.02 or greater.

Positive Drug Test: A laboratory finding of the presence of a drug or a drug metabolite in the urine or blood of an employee at the levels identified by the Substance Abuse and Mental Health Services Administration (SAMHSA), or for drugs not subject to SAMHSA guidelines; second testing of all positive tests will be confirmed using a different technology than was used for the first test, such as the gas chromatography/mass spectrometry (GC/MS) process.

Safety-Sensitive Positions: Non FTA or FMCSA covered employees who as a core or essential function of their job operate, inspect, or repair equipment or vehicles, utilize hazardous materials, or whose core duties or responsibilities directly impact the public's or employees' health and safety, or the protection of life, property, or environment.

Voluntary Testing: Testing conducted on an employee where the employee volunteers to be tested. Normally voluntary testing will be paid for by the employee.

Work Location: All Town premises and vehicles, as well as customer locations at which employees perform services.

VII. Responsibilities

A. All Employees are expected to:

1. Be familiar with and comply with the Terms and Conditions of the Town's Drug and Alcohol Free Workplace Policy
2. Consent to testing as required by the classification of their position and when reasonable suspicion exists

B. All Supervisors and Managers are expected to:

1. Be familiar with and comply with the Town's Drug and Alcohol Free Workplace policies and procedures
2. Complete Reasonable Suspicion Training
3. Recommend testing an employee when reasonable suspicion exists, and assist with testing procedures
4. Attend additional training as required or requested
5. Maintain confidentiality
6. Arrange for employees to be tested when they are called under random selection testing procedures
7. Consult with HRD as needed.

C. All Department Heads are expected to:

1. Be familiar with and comply with the Town's Drug and Alcohol Free Workplace policies and procedures
2. Assure that all supervisors complete Reasonable Suspicion Training and attend any required ongoing education related to this policy.
3. Complete Reasonable Suspicion Training and attend any required ongoing education related to this policy
4. Take disciplinary action when warranted for violations of this policy
5. Consult with HRD as necessary.
6. Take measures to assure employee confidentiality
7. Assure compliance with State and Federal regulations, if applicable

D. All Human Resource Development Staff are expected to:

1. Help all employees understand the policy and procedures
2. Set up random testing procedures for all Safety Sensitive employees
3. Assure that pre-employment drug testing is completed prior to an employee's first day of work
4. Maintain confidential records and complete any required reporting to state and federal agencies.
5. Provide ongoing education about this policy and procedures as needed to all existing employees
6. Review policy in New Employee Orientation
7. Provide Reasonable Suspicion Training to supervisors and managers

VIII. Appendices

- B. [Town of Chapel Hill Position Classifications for Drug and Alcohol Testing](#): a list of positions that are classified as Safety Sensitive. These positions are subject to random drug testing. This list is not exhaustive as it may be modified periodically as positions are added or eliminated based on the operational needs of

the Town. If you have a question about whether your position is categorized as Safety Sensitive, please contact either your supervisor or your HRD partner.

- C. [Signs and Symptoms of Drug Abuse](#). Details about specific substances, signs and symptoms, health effects, and other information.
- D. [Garrity Warning Text](#): This warning should be read to any employee who is being investigated and/or tested for possible substance use or abuse. The purpose is to make it clear that information gathered will not be used to bring criminal charges against the employee.

IX: Frequently Asked Questions

X: Scope All Town employees are subject to this policy.

XI: Related Information

- A. **Ordinance Reference:**
- B. **Chapel Hill Transit Substance Abuse Policy**
- C. [Drug Free Workplace Act of 1988](#)
- D. [49 CFR Part 382, Controlled Substances and Alcohol Use and Testing](#), issued by the Federal Motor Carrier Safety Administration (FMCSA) issued to regulate drug and alcohol abuse by employees who operate commercial motor vehicles.
- E. [49 CFR Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs](#), issued by the Department of Transportation (DOT) to establish procedures for alcohol or controlled substance testing conducted for FMCSA covered employees. This regulation is periodically amended and updated. The Town uses the most current version of these procedures to determine its testing thresholds and testing procedures.

XII: Policy History

Initial Drug and Alcohol Abuse Policy was adopted 7/1/90. Revisions also adopted in 11/92, 1995, and FY 2005, and 8/2009 with the requirement by federal DOT for drug testing of jobs requiring Commercial Drivers' License. Additional revisions have been made to address Federal Transit Administration January 2011 requirements for those employees covered under Federal Transit Administration Regulations. Revisions made in January 2016 to include Town Mandated Safety Sensitive Positions.

Adopted August, 1999
 Reissued June, 2008
 Revised January, 2011
 Revised June 2011

APPENDIX B TOWN SAFETY SENSITIVE POSITIONS	LAST UPDATED December 15, 2015
A-L	L-Z
Aquatic Specialist,	Lead Signs and Marketing Technician
Adaptive Recreation Coordinator	Lead Traffic Signal Technician
Deputy Fire Chief	Maintenance Assistant
Assistant Fire Marshal	Master Firefighter
Assistant Municipal Arborist	Mechanic Supervisor
Assistant Police Chief	Mechanic Helper
Assistant Recreation Supervisor	Occupational Health and Safety Officer
Battalion Chief	Municipal Arborist
Building Inspector	Park Maintenance/ Landscape Services Superintendent
Building Maintenance Mechanics I, II, III	Parking Enforcement Officer
Buildings Program Supervisor	Police Captain
Code Enforcement Officer	Police Chief
Construction Crew Supervisor	Police Crisis Counselor
Construction Supervisor	Police Lieutenant
Construction Worker I, II, III	Police Officer I-IV
Drainage Crew Supervisor	Police Sergeant
Deputy Fire Marshal	Recreation Assistant
Drainage Maintenance Supervisor	Recreation Specialist
Engineering Inspector	Recreation Supervisor
Facilities Supervisor	Right of Way Crew Leader
Festivals and Events Technician	Senior Heavy Equipment Operator
Fire Captain	Senior Building Inspector
Fire Chief	Senior Mechanic
Fire Equipment Operator	Special Olympics Coordinator
Fire Inspector 1 and 2	Sign and Marking Technician I, II, III
Firefighter	Solid Waste Equipment Operator I, II, III
Fire Lieutenant	Solid Waste Crew Supervisor
Fire Marshal	Solid Waste Services Manager
Fire Protection Specialist	Solid Waste Services Supervisor
Fleet Manager	Senior Engineering Coordinator
Fleet Mechanics I, II, III	Solid Waste Collector
Fleet Supervisor	Senior Engineering Inspector
Forensic & Evidence Specialist	Senior Street Sweeper Equipment Operator
Heavy Equipment Operator	Street Inspector
Forensic and Evidence Specialist	Streets Crew Supervisor
Housing Maintenance Mechanic I, II, III	Street Sweeper Equipment Operator
Housing Mechanic Supervisor	Streets Supervisor
Housing Maintenance Repair Worker	Traffic Engineering Technician
Landscape Crew Leader	Traffic Engineer I
Landscape Specialist	Traffic Signal Technician I, II, III
Landscape Specialist - Certified	Traffic Signal Systems Analyst
Lead Construction Worker	
Landscape Supervisor	



Appendix C Signs and Symptoms of Substance Abuse

This list is not meant to be exhaustive. It is important to watch for any significant changes in an employee's physical appearance, personality, attitude or behavior. **The key is change.**

Physical Signs

- Loss of appetite, increase in appetite, any changes in eating habits, unexplained weight loss or gain.
- Slowed or staggering walk; poor physical coordination.
- Inability to sleep, awake at unusual times, unusual laziness.
- Red, watery eyes; pupils larger or smaller than usual; blank stare.
- Cold, sweaty palms; shaking hands.
- Puffy face, blushing or paleness.
- Smell of substance on breath, body or clothes.
- Extreme hyperactivity; excessive talkativeness.
- Runny nose; hacking cough.
- Needle marks on lower arm, leg or bottom of feet.
- Nausea, vomiting or excessive sweating.
- Tremors or shakes of hands, feet or head.
- Irregular heartbeat.

Behavioral Signs

- Change in overall attitude/personality with no other identifiable cause.
- Changes in friends; new hang-outs; sudden avoidance of old crowd; doesn't want to talk about new friends; friends are known drug users.
- Change in activities or hobbies.
- Drop in performance at work; skips work or is late for work.
- Change in habits at home; loss of interest in family and family activities.
- Difficulty in paying attention; forgetfulness.
- General lack of motivation, energy, self-esteem, "I don't care" attitude.
- Sudden oversensitivity, loss of temper, or resentful behavior.
- Moodiness, irritability, or nervousness.
- Silliness or giddiness.
- Paranoia
- Excessive need for privacy; unreachable.
- Secretive or suspicious behavior.
- Car accidents.
- Chronic dishonesty.
- Unexplained need for money, stealing money or items.
- Change in personal grooming habits.
- Possession of drug paraphernalia.

Drug Specific Symptoms:

Marijuana: Glassy, red eyes; loud talking and inappropriate laughter followed by sleepiness; a sweet burnt scent; loss of interest, motivation; weight gain or loss.

Alcohol: Clumsiness; difficulty walking; slurred speech; sleepiness; poor judgment; dilated pupils.

Depressants: (including barbiturates and tranquilizers) Seems drunk as if from alcohol but without the associated odor of alcohol; difficulty concentrating; clumsiness; poor judgment; slurred speech; sleepiness; and contracted pupils.

Stimulants: Hyperactivity; euphoria; irritability; anxiety; excessive talking followed by depression or excessive sleeping at odd times; may go long periods of time without eating or sleeping; dilated pupils; weight loss; dry mouth and nose.

Inhalants: (Glues, aerosols, and vapors) Watery eyes; impaired vision, memory and thought; secretions from the nose or rashes around the nose and mouth; headaches and nausea; appearance of intoxication; drowsiness; poor muscle control; changes in appetite; anxiety; irritability; an unusual number of spray cans around.

Hallucinogens: Dilated pupils; bizarre and irrational behavior including paranoia, aggression, hallucinations; mood swings; detachment from people; absorption with self or other objects, slurred speech; confusion.

Heroin: Needle marks; sleeping at unusual times; sweating; vomiting; coughing and sniffing; twitching; loss of appetite; contracted pupils; no response of pupils to light.

Health Risks Associated with Use or Abuse:

Tobacco and Nicotine

Smokers are more likely than nonsmokers to contract heart disease. Lung, larynx, esophageal, bladder, pancreatic, and kidney cancers also strike smokers at increased rates. Thirty percent of cancer deaths are linked to smoking. Chronic obstructive lung diseases, such as emphysema and chronic bronchitis, are 10 times more likely to occur among smokers than among nonsmokers. Smoking during pregnancy also poses risks, such as spontaneous abortion, pre-term birth, and low birth weights. Fetal and infant deaths are more likely to occur when the pregnant woman is a smoker. Nicotine is both psychologically and physically addictive.

Alcohol

Low doses significantly impair the judgment and coordination needed to operate vehicles. Small amounts can also lower inhibitions. Moderate to high doses cause marked impairments in higher mental functions, and loss of memory and the ability to learn and remember information. High doses cause respiratory depression and death. Long-term consumption, particularly when combined with poor nutrition, can also lead to dependence and permanent damage to vital organs such as the brain and the liver. If combined with other depressants of the central nervous system, much lower doses of alcohol will produce the effects just described. Mothers who drink

alcohol during pregnancy may give birth to infants with fetal alcohol syndrome. These infants have irreversible physical abnormalities and mental retardation.

Cannabis (Marijuana, Hashish, Hashish Oil, Tetrahydrocannabinol)

Physical effects of cannabis include increased heart rate, bloodshot eyes, dry mouth and throat, and increased appetite. Use of cannabis may impair or reduce short-term memory and comprehension, alter sense of time, reduce ability to perform tasks requiring concentration and coordination, and impair driving ability. Motivation and cognition may be altered, making the acquisition of new information difficult. Marijuana, hashish, THC, etc., can also produce paranoia and psychosis. Long term use may result in possible lung damage, reduced sperm count and sperm motility, and may affect ovulation cycles. Cannabis can also be psychologically addictive.

Inhalants (Nitrous Oxide, Amyl Nitrite, Butyl Nitrite, Chlorohydrocarbons, Hydrocarbons)

Immediate effects of inhalants include nausea, sneezing, coughing, nosebleeds, fatigue, lack of coordination, and loss of appetite. Solvents and aerosol sprays also decrease the heart and respiratory rates and impair judgment. Amyl and butyl nitrite cause rapid pulse, headaches, and involuntary passing of urine and feces. Long-term use may result in hepatitis or brain damage. Deeply inhaling vapors, or using large amounts over a short time, may result in disorientation, violent behavior, unconsciousness, or death. High concentrations of inhalants can cause suffocation by displacing oxygen in lungs. Long-term use can cause weight loss, fatigue, electrolyte imbalance, muscle fatigue, and permanent damage to the nervous system.

Cocaine (Crack)

Cocaine stimulates the central nervous system. Its immediate effects include dilated pupils and elevated blood pressure, heart rate, respiratory rate, and body temperature. Occasional use can cause nasal irritation; chronic use can ulcerate the mucous membrane of the nose. Crack or freebase rock is extremely addictive. Physical effects include dilated pupils, increased pulse rate, elevated blood pressure, insomnia, loss of appetite, tactile hallucinations, paranoia, and seizures. The use of cocaine can cause death by cardiac arrest or respiratory failure.

Stimulants (Amphetamines, Methamphetamines, Crank, Ice)

Stimulants cause increased heart and respiratory rates, elevated blood pressure, dilated pupils, and decreased appetite. Users may experience sweating, headache, blurred vision, dizziness, sleeplessness, and anxiety. Extremely high doses can cause rapid or irregular heartbeat, tremors, loss of coordination, and physical collapse. Amphetamine injection creates a sudden increase in blood pressure that can result in stroke, very high fever, or heart failure. In addition to physical effects, feelings of restlessness, anxiety, and moodiness can result. Use of large amounts over a long period of time can cause amphetamine psychosis that includes hallucinations, delusions, and paranoia. The use of amphetamines can cause physical and psychological dependence.

Depressants (Barbiturates, Methaqualone, Tranquilizers)

Small amounts can produce calmness and relaxed muscles, but somewhat larger doses can cause slurred speech, staggering gait, and altered perception. Large doses can cause respiratory depression, coma, and death. Combination of depressants and alcohol can multiply effects of the drugs, thereby multiplying risks. Babies born to mothers who abuse depressants during pregnancy may be physically dependent on the drugs and show

withdrawal symptoms shortly after birth. Birth defects and behavioral problems may also result. The use of depressants can cause both physical and psychological dependence.

Hallucinogens (PCP, LSD, Mescaline, Peyote, Psilocybin)

Phencyclidine (PCP) interrupts the functions of the neocortex, the section of the brain that controls intellect and instinct. PCP blocks pain receptors, and users can have violent PCP episodes resulting in self-inflicted injuries. Lysergic acid diethylamide (LSD), mescaline, and psilocybin cause illusions and hallucinations. The physical effects may include dilated pupils, elevated body temperature, increased heart rate and blood pressure, loss of appetite, sleeplessness, and tremors.

Narcotics (Heroin, Methadone, Codeine, Morphine, Meperidine, Opium)

Narcotics initially produce a feeling of euphoria that often is followed by drowsiness, nausea, and vomiting. Users may experience constricted pupils, watery eyes and itching. Overdoses may produce respiratory depression, clammy skin, convulsions, coma and death. Addiction in pregnant women can lead to premature, stillborn, or addicted infants who experience severe withdrawal symptoms. Use of narcotics can cause physical and psychological dependence.

Designer Drugs (Analogues of Fentanyl, Analogues of Meperidine, MDMA, Ecstasy Analogues of PCP)

Many "designer drugs" are related to amphetamines and depressants and have mild stimulant and depressant properties. Use can produce severe neurochemical damage to the brain. Narcotic analogues can cause symptoms such as those seen in Parkinson's disease: uncontrollable tremors, drooling, impaired speech, paralysis, and irreversible brain damage. Analogues of amphetamines and methamphetamines cause nausea, blurred vision, chills or sweating, and faintness. Psychological effects include anxiety, depression, and paranoia. Analogues of PCP cause illusions, hallucinations, and impaired perception.

Anabolic Steroids

Steroid users subject themselves to more than 70 side effects, ranging in severity from acne to liver cancer, including psychological as well as physical reactions. The liver and cardio-vascular and reproductive systems are most seriously affected by use. In males, use can cause withered testicles, sterility, and impotence. In females, irreversible masculine traits can develop along with breast reduction and sterility. Psychological effects in both sexes include very aggressive behavior, known as "roid rage", and depression. While some side effects appear quickly, others, such as heart attacks and strokes, may not show up for years.



Appendix D Town Of Chapel Hill
Administrative Investigation Garrity Warning

You are presently the subject of an administrative investigation regarding a disciplinary matter as it relates to your conduct. Specifically, it is alleged that you violated _____ of the _____ Department's Policies and Procedures) or (Section _____ of the Town Ordinance(s).) The purpose of this investigation is to determine whether the facts as alleged are true and whether Departmental or Town Policies and Procedures/Town Ordinance(s) _____ have been violated. As an employee of the Town of Chapel Hill involved in an internal investigation, you do not have the right to refuse to answer questions that are directly and narrowly related to your official duties. Similarly, you do not have the right to refuse to answer questions that are narrowly and directly related to this investigation. You shall answer all questions honestly, completely and to the best of your ability. Failure to cooperate with this investigation, whether by evasion, untruthfulness or choosing not to answer the questions asked of you, may result in disciplinary action, up to, and including, dismissal. This is an administrative investigation; it is not designed to discover criminal violations. If any criminal conduct is revealed during the course of the investigation, any incriminating statement that you may have made after being compelled to answer, and in the absence of your Miranda rights, would not be admissible in a criminal prosecution against you. Incriminating statements that have been compelled will be admissible in an administrative hearing.

This investigation and interview are confidential to the extent allowed by law. To ensure that the integrity of the investigation is preserved and that all applicable Departmental and Town Policies and Procedures are understood and followed, you shall not discuss this investigation, nor allow anyone else to gain access to that information, without the expressed authorization of your Department Head. You may, however, discuss this matter with your supervisor or, if applicable, your attorney without prior approval.

Employee's Signature: _____

Date: _____ Time: _____

Administered By: _____

Witnessed By: _____

The Garrity warning must be read to and signed by any employee who is being tested or investigated for possible substance use or abuse due to reasonable suspicion. The purpose of this warning is to assure the employee that information uncovered during this investigation will not be used to bring criminal charges against the employee.

Form 8-1 A
Reasonable Suspicion Procedures



Before beginning the employee interview, complete the following steps:

1. Begin the **Incident Report Form for Reasonable Suspicion Testing** to document reasonable suspicion. Documentation should be based on the following:
 - Policy and/or safety precaution violation(s)
 - Accident or incident that occurred
 - Other details surrounding the incident
 - Your assessment of whether the employee is able to perform his/her job responsibilities
2. **Obtain the assistance** of your supervisor (or designee) or, if unavailable, another supervisor or manager (preferably in your department) to assist you during the investigation.
3. **Maintain confidentiality** by only discussing your suspicions with those who are authorized to know (department management, HRD, Legal or others authorized by your department head)
4. **Remove the employee** from the work area.
 - Do not leave the employee unattended
 - Do not ask the employee to sit in the employee lounge or other public area
 - Do ask the employee to sit in a discreet location such as an office
 - Do not isolate yourself in a location where you cannot be easily helped in case of an emergency
 - Begin to use the **Incident Report Checklist for Reasonable Suspicion Testing** to note what you have seen, heard, smelled, touched, etc.
 - Complete the Incident Report Form
5. **Contact your supervisor**, department head, and your HRD Partner to inform them of the possible concern.

FORM 8-1 B			
TOWN OF CHAPEL HILL REASONABLE SUSPICION SHORT-TERM OBSERVATION CHECKLIST			
Employee Name	Job Title	Department	Division

Complete this checklist for any incident where reasonable suspicion exists that an employee is intoxicated, under the influence of, or otherwise shows signs of recent use of a prohibited drug or alcohol. Indicate all relevant behavior and physical symptoms of recent substance use. Check each item on this form and add any additional facts or conditions which you have observed. If there are long-term behavioral indicators of substance abuse which support this checklist, please also include the Reasonable Cause Drug Test Long-Term Observation Checklist.

A. NATURE OF INCIDENT

- Observed possession or use of an unknown substance or drug paraphernalia
- Apparent drug or alcohol intoxication
- Observed abnormal or erratic behavior consistent with drugs or alcohol
- Arrest or conviction for drug-related offense
- Other observations consistent with prohibited drug use or alcohol misuse (e.g., reports by passenger or reliable/credible third party, flagrant violation of safety or serious misconduct, fighting or argumentative/abusive language, refusal of supervisor instruction, unauthorized absence on the job).

NOTE: PLEASE DESCRIBE BELOW

B. BEHAVIORS OBSERVED (CHECK ALL THAT APPLY)

- Verbal abusiveness
- Physical abusiveness
- Extreme aggressiveness or agitation
- Withdrawal, depression, tearfulness, or unresponsiveness
- Other erratic or inappropriate behavior (e.g., hallucinations, disoriented, excessive euphoria, and talkativeness, confused) NOTE: PLEASE DESCRIBE BELOW:

C. PHYSICAL SYMPTOMS (CHECK ALL THAT APPLY)

- | | |
|---|--|
| <input type="checkbox"/> Slurred or incoherent speech | <input type="checkbox"/> Disheveled appearance or out of uniform |
| <input type="checkbox"/> Unsteady gait, loss of physical control, poor coordination | <input type="checkbox"/> Shaking hands or body tremors/twitching |

EMPLOYEE NAME

E. GENERAL JOB PERFORMANCE (CHECK ALL THAT APPLY)**DOCUMENTATION AVIALABLE**

- | | |
|--|--|
| <input type="checkbox"/> Excessive use of sick leave | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Frequent Monday/Friday/after holiday absences or similar pattern | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Frequent unexplained disappearances or trips to rest the room | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Excessive "extension" of breaks or lunch | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Frequently leaves work early | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Frequent personal phone calls | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Increased concern from others about, or instances of, safety violations | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Experiences, or causes, job accidents | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Interferes with or ignores established procedures | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Inability to follow through on performance recommendation | <input type="checkbox"/> Yes <input type="checkbox"/> No |

F. PERSONAL MATTERS (CHECK ALL THAT APPLY)

- | | |
|--|--|
| <input type="checkbox"/> Changes in or unusual personal appearance (dress, hygiene) | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Changes in usual speech (incoherent, loud, stuttering or slurred) | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Changes in or unusual facial expressions, flushed or clammy face, bloodshot eyes | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Much increased or reduced level of activity (fatigue, sleeping on the job, high activity) | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Increasingly irritable, tearful, excitable, nervous | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Persistently boisterous or rambunctious | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Unpredictable or out-of-control displays of emotions | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Engages in discussions about obtaining drugs or alcohol | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Makes unfounded accusations toward others (i.e. feeling persecuted) | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Secretive or furtive | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Memory problems (difficulty recalling instructions, data, past behavior) | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Frequent colds, flu, or other illness | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Excessive fatigue | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Makes unreliable or false statements | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Unrealistic self-appraisal or grandiose statements | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Temper tantrums or angry outbursts | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Demanding, rigid, inflexible | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Major changes in physical health | <input type="checkbox"/> Yes <input type="checkbox"/> No |

G. OTHER OBSERVATIONS (Attach additional sheets as needed)

Supervisor Signature

Date/Time

Frequently Asked Questions about Drug and Alcohol Free Workplace Policy and Procedures



Find answers to these questions here:

1. [Why are there different criteria for safety sensitive and non safety sensitive employees?](#)
2. [How are safety sensitive employees determined?](#)
3. [Does “zero tolerance” mean somebody is immediately fired for violating the policy?](#)
4. [How does Americans with Disabilities \(ADA\), Employee Assistance \(EAP\), and Family Medical Leave \(FMLA\) affect the zero tolerance provisions of this policy?](#)
5. [What about off-duty use of substances?](#)
6. [Can I purchase alcohol while in my town uniform?](#)
7. [What if I disclose use prior to being tested? Does that keep me from getting fired?](#)
8. [Why do we test existing employees when they apply for certain positions in the town?](#)
9. [Why do we drug test certain employees who have been on leave for more than 30 days?](#)
10. [Can an employee and supervisor wait until shift ends before reporting for a random drug test?](#)
11. [When do supervisors get reasonable suspicion training?](#)
- 12-14. [Questions about testing requirements after an accident.](#)
15. [What is a Garrity warning, and when is it required?](#)
- 16-17 [Questions about post-accident testing timeframes.](#)
18. [What if I don’t have a photo ID with me when I am called for testing? Is that a refusal to test?](#)
19. [Does a supervisor have to accompany an employee to random testing?](#)
20. [Must an employee notify the Town that he/she is taking medication?](#)
- 21-23 [Questions about secondary exposure to certain substances, such as marijuana, on or off the job.](#)
24. [General questions about testing procedures.](#)
25. [If I disclose my medication use during a required physical, does that mean I have informed the Town?](#)
26. [Managers concerned about escalating use of sick leave due to new policy?](#)
- 27-28 [Testing for new hires and request for a template to notify new hires of this requirement.](#)
29. [How long does it take to get results from a drug screen?](#)
30. [Questions about the random drug pool, how it’s set up and administered.](#)
31. [Do temporary or contract employees have to be drug tested?](#)
32. [Testing requirements for Safety Sensitive employees out of work for >30 days?](#)
33. [Do we need parental permission to drug test employees who are under 18?](#)
34. [Who is eligible for the Employee Assistance Program \(EAP\)?](#)
35. [What is a “negative dilute” test result and why is there a re-testing requirement when this test result shows up?](#)

1. There is a section of the policy (cited below) that sets up different testing criteria for town employees involved in an accident. Can you explain why? It seems that this situation does not honor the town's value of equity.

[Section 1.4 a and b](#) (this section explains that there are different testing standards after an accident depending on whether the employee's position is classified as 'safety sensitive' or 'non safety sensitive.'")

According to the policy, a safety-sensitive and non-safety sensitive employee could be involved in the exact same type of accident and only the safety-sensitive employee would be tested. For example, a non-safety sensitive employee is driving a Town vehicle and hits a bicyclist, killing the cyclist. The Town employee is not tested because there is no reasonable suspicion. On the other hand, if you replace the Town employee with a safety-sensitive employee in the scenario, the safety-sensitive employee is automatically drug tested.

Answer:

The Town does not have the right to test employees that are not classified as safety sensitive unless reasonable suspicion exists. The courts have ruled that conducting drug testing on non-safety sensitive employees without a reasonable suspicion that they are using a controlled substance or under the influence of an impairing substance is a violation of a worker's right to protection from unreasonable searches guaranteed under the Fourth Amendment of the U.S. Constitution.

2. To ensure consistency across the town in the positions designated as safety-sensitive, can more details and/or further clarification be given for the definition of "safety-sensitive positions"?

Answer:

Safety Sensitive employees are identified as such in one of two ways:

1. Federal regulations govern certain positions in the Town. The Federal Transit Authority (FTA) and the Federal Motor Carriers Safety Act (FMCSA) cover some Town positions, and those regulations specify how and when those employees are to be tested for substances after an accident. These positions include anyone who as a part of their job responsibilities:
 - a) Operate a transit revenue service vehicle even when the vehicle is not in revenue service.
 - b) Operate a non-revenue service vehicle when the operation of such a vehicle requires the driver to hold a Commercial Driver's License (CDL).
 - c) Maintain a revenue service vehicle or equipment used in revenue service.
 - d) Control the movement of a revenue service vehicle
 - e) Carry a firearm for security purposes.

Chapel Hill Transit Substance Abuse Policy contains a list of all positions designated covered by these federal regulations.

2. In addition, the Town designates some additional positions as 'safety sensitive.' The courts have determined who can fall into this category as follows:

“ Covered employees who, as a core or essential function of their job operate, inspect, or repair equipment or vehicles, utilize hazardous materials, or whose core duties or responsibilities directly impact the public’s or employees’ health and safety, or the protection of life, property, or environment.”

[Appendix B](#) lists all Town- Designated 'Safety Sensitive' positions. The Town applies the same testing criteria to all 'Safety Sensitive' employees to honor our Town Value of Equity.

3. Does “zero tolerance” in the policy mean that an employee is automatically terminated for any violation of the policy? If not, can a further explanation of zero tolerance be provided?

Answer:

- A. Zero tolerance does not mean that an employee will automatically be terminated. If an employee reports their substance abuse problem prior to being called to submit to a drug or alcohol test, then consideration may be given to that employee depending upon their circumstances. If an employee reports that they are an alcoholic, the issue will be addressed in accordance with the Americans with Disabilities Act.
- B. Zero tolerance means that if an employee knowingly and willingly violates the provisions of this policy, the Town is not required to give them a second or third chance and they will be subject to disciplinary action, up to and including termination.

4. How does the zero tolerance policy fit with the Employee Assistance Program (EAP) and the family medical leave act (FMLA) requirements? For example, alcoholism is recognized as a disease that entitles an employee to FMLA coverage and access to the EAP.

Answer:

- A. The EAP is a resource for employees who wish to seek assistance for a substance abuse problem. Employees may voluntarily go to the EAP or may be referred by the Town.
- B. When a person self-reports or circumstances warrant an approved leave from the Town, the employee will be placed on FMLA. This may not apply to employees who have a positive drug reading after a random or reasonable suspicion test.

5. Can this section of the policy be clarified and/or an example given to further explain the expectation for this item?

[Section C. 6. Off Duty:](#) *“An employee is discouraged from ingesting alcohol or drugs to the extent that it results in appreciable impairment that might discredit the employee or the Town.”*

Answer:

Here are two examples of off duty behavior that pertain to this section.

- A. An employee drives a Town vehicle to a conference. After the conference the employee and other conference attendees go to a bar. The employee has a few drinks and while driving the Town vehicle back to the hotel the employee gets pulled over by the police and is found to be impaired.
- B. An employee goes to a bar. The employee gets loud and appears to be drunk, so the bartender refuses to serve him/her more liquor. The employee pulls out their Town ID badge and informs the bartender that he/she works for the Town and has the ability to make life miserable for them.

6. Is it acceptable to purchase alcohol while in uniform? For example, an employee leaves work at the end of the day and goes to the grocery store. While at the grocery store the employee purchases alcohol and is wearing a town uniform. Is this a violation of town policy?

Answer:

No, this is not a violation of the policy. The policy specifically indicates that the employee has to INGEST alcoholic beverages or other substances. If you are not drinking the alcohol then it is not a violation of the policy. However be mindful that you are a public servant and when you are in uniform, you are being viewed by the public as a Town employee whether you are on or off duty. Some departments have policies that address wearing uniforms on and off duty, so be sure to check your department policies.

7. Does “prior” to testing mean before the employee is notified that he/she has been selected to take a drug and/or alcohol test or before the test is actually taken?

Section F.2 Voluntary Admission Prior to Testing: “Voluntary admission of a substance abuse problem by an employee prior to random, reasonable suspicion, or positive test result will be noted when considering but does not exempt an employee from disciplinary action.”

Answer:

Yes it does mean prior to an employee being notified that they have been selected for a random or, reasonable suspicion test or have a positive test result.

8. Why is this section of the policy only for safety sensitive positions?

Section I.1.a Pre-Employment Drug and Alcohol Testing: “As a condition of employment, all employees and candidates who receive a conditional offer of employment are required to consent to drug and alcohol testing as specified in this policy. –Existing employees who are being considered for any safety sensitive position within the Town must be screened for drugs and alcohol as part of the employment process for the position. “

Answer:

US DOT requires all candidates to be tested as part of the employment process. In order for the Town to be consistent with our policies of safety and equity, the Town has extended this policy to all Safety-Sensitive Positions.

9. Why is this section under “pre-employment testing”? Does the below section mean that if an employee was sick, on vacation or was taking FMLA leave for 30 or more consecutive days that he/she would need to take a drug test prior to returning to work? Does this section only apply to safety-sensitive employees? How is “out of work” defined?

Section 1.1.c “A Safety-Sensitive employee who has been on a leave of absence for thirty (30) or more consecutive days must submit to a drug test that results in a verified negative result before returning to Safety-Sensitive duties.”

Answer:

- A. This section was placed in the Pre-Employment Testing Section to be consistent with the US DOT regulations.
- B. This section applies to all safety- sensitive position in the Town. Non-safety sensitive positions are not covered under this section. Yes, it does mean that any safety sensitive employee who is on a leave of any kind for 30 or more consecutive days must be re-tested before returning to work.
- C. For the purposes of this policy and to be consistent with USDOT regulations, an employee is considered “out of work” when they are removed from the random testing pool. When an employee is on sick, vacation or FMLA leave for 30 or more days, the employee is removed from random testing pool.

10. This section requires the employee to proceed immediately to the designated testing facility. Is it possible to give the supervisor the discretion to notify the employee of the random test at the end of a work task or work duty, but during the employee’s normal work shift, instead of being required to immediately take the employee for a drug test? This would allow for operations to continue and would give the supervisor the discretion to assign duties in a manner that causes the least disruption to overall operations. Also, can we add “departmental designee” in addition to the supervisor to escort employees to the testing facility?

1.2.a. Random Testing for Safety-Sensitive Positions: “All Safety-Sensitive employees are subject to random testing for alcohol and drugs. The Department or its designee shall maintain a testing pool of Safety-Sensitive employees and use a computer-based program to randomly select employees for testing. Separate random testing pools will be maintained for each group of employees..... Each covered employee shall have an equal chance of being selected each time selections are made.... Once notified, selected employees must proceed immediately to the designated testing facility.... A supervisor must escort all selected employees to the testing facility.”

Answer:

- A. Requiring an employee to report immediately once he/she is notified that she has been randomly selected for the testing pool ensures that the employee will in no way be able to tamper with or ingest any product or substance that may interfere with the results of the drug screen. If supervisors were allowed to postpone the testing after the employee has been notified, it would mean that the

supervisor would have to be in a position to monitor that employee's action until they report for the testing. This procedure is a best practice recommended by all federal agencies.

- B. Drug testing is a sensitive and highly confidential process. For that reason the Town wants to keep the responsibility for administering the process at the supervisory level. It is also important that any information regarding the testing process remain in the employee's supervisory chain of command. The Supervisors Manual provides departmental staff that have been designated as contacts for the Drug Testing process.

11. When is reasonable suspicion training going to be provided to supervisors?

Answer:

HRD conducted reasonable suspicion training in January and February of 2015 and will continue to offer training on a regular basis.

12. Can "any other vehicle while on town business" be clarified? Does it apply to an employee's personal vehicle? As an example, does this mean that if an employee is driving their own vehicle to a meeting, then [section i.4, post-accident testing](#) applies? Does this apply to all employees or only safety sensitive positions?

Answer:

This policy applies to all employees who are in an accident while conducting Town business, whether driving a town-owned or a personal vehicle.

13. Does post-accident testing only apply to licensed vehicles? For example, would an employee involved in an accident involving a leaf blower, chain saw, or other equipment be subject to the post-accident testing policy?

Answer:

Post-accident testing refers to vehicles only. Any employee who is injured, injures someone else, or damages property while using Town equipment will only be tested if there is a reasonable suspicion that they may be impaired or under the influence of a prohibited substance.

Please see the chart on the following page for assisting in determining when a safety sensitive employee should be tested after an accident.

The chart below will assist you in determining when testing is required for a safety-sensitive employee after a vehicular accident. Testing guidelines are slightly different for employees covered under FTA guidelines.

Post- Accident Testing Decision Table for Safety Sensitive Employees

TYPE OF ACCIDENT	CITATION ISSUED TO DRIVER	TESTING MUST BE PERFORMED
Fatality Occurs	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

Any Town employee must be tested if reasonable suspicion exists.

14. Would a post-accident drug test be required in the following scenario? An employee is involved in an accident and a vehicle must be towed from the scene (or an individual is taken from the scene in an ambulance). In this scenario, no citations were issued at the scene for the accident.

Answer:

Testing would only occur in this instance if reasonable suspicion exists. It is not automatic.

15. In the below section, must the Garrity warning be issued for all post-accident tests or just for reasonable suspicion testing? When will supervisors be trained on how to administer Garrity warnings? Also, the text of the warnings needs to be included with the policy. Does the administration of the Garrity warning need to be acknowledged by the employee in writing?

[Section I.4.c Garrity Warnings Required Prior to Testing:](#) “Any employee who is tested under the provisions of this policy following an accident must be administered a ‘[Garrity Warning](#)’ prior to being tested for alcohol or drugs. A Garrity warning advises the employee that any information obtained by the Town during the course of testing will not be used to bring criminal charges against the employee. A supervisor must read the Garrity warning to the employee before the employee is tested. The text of the Garrity warning is available at [Appendix D](#)”

Answer:

- A. Garrity warnings should be administered for any post-accident testing.
- B. Garrity warnings require only that a supervisor read the statement to the employee when there may be criminal activity. A copy is attached to the policy.

- C. You do not have to have the employee sign an acknowledgement statement. Just document that you read them the Garrity warnings prior to obtaining any statements.
- D. HRD and Legal will be glad to attend supervisor staff meeting to answer any additional questions you may have about Garrity warnings. At this time we do not plan to conduct any training, since the requirement is simply to read the statement to the employee.

16. How should testing be conducted when an employee is working hours outside of the typical business hours of 8 am – 5 pm, Monday-Friday. The public works department has employees that work early morning, late night and weekend shifts. In addition, a supervisor may or may not be working at the same hours as these employees.

Section 1.4.h Timeframe for Post- Accident Testing: “Employees must be tested for drugs within thirty-two (32) hours following an accident. Absent extenuating circumstances, alcohol tests must be conducted within two (2) hours following an accident. There are no circumstances under which an alcohol test will be conducted after eight (8) hours following an accident. ”

Answer

- A. There should always be a supervisor available when there are employees performing duties for the Town. If an employee is in an accident he/she there should be a supervisor in their chain of command available to reach that employee within a reasonable amount of time. There should never a situation where a supervisor cannot reach an employee within 2 hours after an accident.
- B. The Town contracts with Affordable On-site who conducts the testing after hours on-site after hours.

17. The Public Works department has employees that work early morning, late night and weekend shifts. In addition, a supervisor may not be working at the same hours as these employees. Per the below section, supervisors could potentially be held responsible for something that is beyond their control. Could this be re-written to take into consideration the above as well as other extenuating circumstances that are beyond the supervisor’s control?

Section 1.4.i. If Testing Timeline is Not Met after an Accident: “If post-accident tests are not performed within the designated time requirements, the supervisor must prepare a memorandum for the record stating the reason a test was not promptly administered. This memorandum must be sent to the Department Head and the Town Safety Officer. Failure by a supervisor to ensure appropriate tests are performed or to document the reason tests were not promptly administered will result in appropriate disciplinary action against the supervisor.”

Answer:

If there is a legitimate reason that the supervisor did not adhere to this section of the policy such as different shifts, this will be considered. This policy is intended to addresses those instances where the supervisor disregarded the incident. Prior to disciplinary action being taken against a supervisor, all of the facts in the case will be reviewed and weighed in the final determination.

18. It's the understanding of management that the [failure to provide photo identification](#) at the testing location is a potential action that could be categorized as a refusal for the test and extenuating circumstances may be considered when making this determination. Why this is considered a reason for refusal for testing? It seems plausible that an employee could come to work and inadvertently not have photo identification. Also, not all positions or safety sensitive positions within the town require a license.

Answer:

The Town has issued identification badges to all of its employees. The policy requires that all employees wear these badges during the work hours. If the employee does not have state identification, they can use their Town ID.

19. The below requirement seems extreme and burdensome for supervisors. Could it be rewritten to detail the expectations for employees versus the supervisor?

[K.1.a](#) "The employee will be escorted by a supervisor to the testing location. The supervisor shall watch the employee to assure that he or she does not eat or ingest anything or that he or she does not acquire 'clean' urine from another person."

Answer:

This procedure comes directly from the best practice recommendations of the US DOT.

20. What action (if any) should be taken if an employee refuses or does not notify his supervisor when he/she is taking a substance that might impair performance?

Answer:

If an employee does not notify the supervisor that they are taking a substance that might impair their performance, the employee could be subject to reasonable suspicion testing and could face severe disciplinary action. Before any action is taken, you should discuss with your supervisor, department head, HRD and Legal.

21. Our crews that regularly respond to smoke alarms and medical calls in student housing are frequently exposed to concentrated environments of marijuana smoke that surely enters their system. We do document exposures on our reports but how can we make sure that this does not translate into a positive testing situation and suspicion for an employee?

Answer:

We cannot guarantee that the exposure will not translate into a positive reading. However, if the department has appropriately documented the exposure, the employee will not be subject to disciplinary action. Provide this information to the testing facility at the time of testing.

22. Same question but as applied to a non-occupational off duty casual exposure to marijuana smoke at a concert or sporting event?

Answer:

Since we would not be able to document how the exposure occurred we could not make an exception. It is the employee's responsibility to make sure that their exposure to drugs is limited so that they do not have a positive test result.

23. Is there a way to establish a baseline measurement for casual exposure?

Answer:

The levels that we are using are established by the US DOT based on their experience and research about how to assure safety and performance in the workplace, which is the reason for having this policy.

24. Some of the actual procedural mechanics of random testing does not yet seem to be clear. Can we implement a "soft" ramp up to the process with procedural input from the affected operational departments? There are a variety of questions to be answered including time frames, scheduling, where & how, confidentiality, etc. Answers may be different based on work schedules, etc. But need to be clarified for employees prior to initiation.

Answer:

No. The mechanics of the random testing are addressed in the Substance Abuse Procedures Manual. The testing rates are established by the DOT. In order to be consistent, all Safety Sensitive pools are using a drug rate of 50% and an alcohol rate of 10% of the pool.

25. In our required OSHA physicals for firefighting, employees disclose all medications regularly taken to the physician who is determining fitness for firefighting hazards and duty and approving or disapproving same. Once that is done, why would employees have to disclose regular prescriptions taken?

Answer:

- A. The expectation is not for an employee to disclose medications or their prescriptions, but rather to provide a doctor's note to the Town, advising that they are capable of safely performing their duties. The physician conducting the physical does not share information with the Town at that level.
- B. However if an employee is taking medications and is experiencing side effects, it is that employee's responsibility to inform his/her supervisor.

26. Our management team is very concerned that sick leave use will escalate unnecessarily as employees take over the counter cold medicines, allergy medicines or other minor symptom suppressing medications so they can function at work. Our current rules merely state that the employee notify their immediate supervisor if they take an over the counter medicine that "might" have side effects and that has worked well for many years. Is there a specific problem that we are trying to address? Our fear is that the policy as written and interpreted will have unintended consequences with employees.

Answer:

The basis for the Drug and Alcohol Free Workplace Policy is to create a work environment that is safe for all of our employees and the community. The policy is intended to protect the employees and reduce the supervisor's exposure to liability. Allowing someone to operate a vehicle or equipment after taking medications that the employee and supervisor know "might" have side-effects is very dangerous and increases the supervisor liability. That being said, the expectation remains that if employees are taking medications and experiencing side effects from those medications, then the employee shall inform his/her supervisor.

27. When new hires get instructions from HRD regarding taking their drug/alcohol screen, will they be told a specific timeframe to take the test, such as within 24 hours?

Answer:

- A. Candidates will have 24 hours from the acceptance of a job to contact HRD, sign the release form and receive the Chain of Custody Form. They will have an additional 24 hours from the time that they sign the release form to take the test. This will be outlined in the job offer letter.
- B. Candidates who live out of state will be required to follow the same procedures.

28. Will we receive a template offer letter with wording regarding the drug/alcohol screen?

Answer:

Yes HRD has prepared a sample offer letter for departments to use.

29. How long will it take to get results from Concentra? Who will get the results – at the department level?

Answer:

Negative results will typically take about 2-3 days. Positive results will take longer, as the Medical Review Officer (MRO) has to contact the candidate/employee prior to finalizing the results.

When the results are received, HRD will contact the department designee. For pre-employment testing, HRD will notify the individual. For random and reasonable suspicious testing, the department will work with HRD to notify the employee.

30. How to set up random drug tests?

- A. Will all people in the same department be in one pool? What are the criteria for establishing a pool? Are CDL in the same pool with non-CDL?
- B. Who manages the pool, re: provides National Testing Association (NTA) with employee names, update with new employees, notify to remove, etc.?
- C. How are we notified when a random test is to be done? Who notifies the individual?
- D. How will we handle employees who are not on the schedule that day?

Answers:

- A. There will be two pools. Group A is all safety sensitive employees covered by either FTA or FMCSA regulations. Group B is Safety Sensitive employees who are not covered by either FTA or FMCSA. The members of each pool are based on job classifications, not departments.
- B. HRD will manage the administration of the pool. NTA will notify the department designee who will notify the supervisor when an employee is selected for testing. The supervisor will be responsible for ensuring that the employee gets to the testing site.
- C. Notification will come directly from NTA to the department designee
- D. Employees who are on their scheduled day off will be tested when they report for their next shift. When an employee is on an extended vacation or leave of absence, the employee will be considered “removed from the pool” and the department designee will contact NTA and request an additional name.

31. How do we handle drug testing for temp staff and contract workers? Do employees need a drug screen each time we add a safety sensitive position, is it considered like a new hire and it is done for every position, or not at all?

Answer:

Agency temporary personnel and Contract workers (those workers who meet the test of the IRS 20 point questionnaire) are not Town employees are therefore, are not subject to testing.

32. There is a statement that safety sensitive employees who have been ‘out of work for 30 days’ must have a drug screen before reporting and then must wait for results before working. We have several questions about this provision, as follows:

A. Who is monitoring the number of days?

Answer:

The department must monitor the number days an employee is out of work.

B. What about seasonal or program support employees? We have a number of employees (college students) that only work during school breaks (fall/spring break; thanksgiving, winter and summer breaks), and substitute program assistants that only work occasionally. Even though they are an ‘active’ employee, if they have not worked in more than 30 days are they considered ‘out of work’? Would they need a drug test? If so, can we work them knowing that they will have a test and are waiting for the results, similar to a random test?

C. Can we inactivate (not terminate) program support/seasonal employees so that they are not called up randomly when they are not currently working (see b. above) and activate them for the time periods that they are working?

Answer:

1. Employees who have been gone more than 30 days and are being reinstated or re-hired must be drug tested.
2. Seasonal and Program support employees should be terminated and not inactivated. Allowing them to remain on the payroll skews our reporting.
3. If an employee works on an “as needed” basis, then they do not have to submit a new application each time they return to work.
4. If the employee has been gone more than one year, they must re-apply. .
5. No employee will be allowed to start an assignment until we receive a negative drug test result.

33. Do we need parental permission for employees 15 – 17 years old to test? If so, how is their approval documented?

Answer:

Under North Carolina law, the Town does not need parental permission to test candidates under the age of 18, nor can the Town provide a parent with any information regarding test results without the consent of the candidate regardless of age.

34. Is the employee assistance program (EAP) offered to program support and seasonal staff?

Answer:

Yes EAP is offered to all current Town employees.

35. The policy has a provision about retesting when there is a something called a “negative diluted test result.” What does this mean?

Section K.3.c ii “If a Town employee receives a negative diluted test result with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, the employee must provide another specimen for testing. The MRO will direct the Department to do a second collection immediately. This must be an OBSERVED collection. The employee will be directed to report for re-testing immediately. The result of the second collection will be the test result of record. If the second collection is also negative and diluted, unless directed by the MRO to perform another observed collection, the test result will stand as negative diluted. Please refer to the Frequently Asked Questions for more information about this special provision.”

Answer:

A ‘negative diluted test result’ can occur for several reason. The most likely reason is that the specimen has been tampered with or substituted. However, in some instances a ‘negative diluted test result’ occurs for other reasons. Re-testing using a specimen collected while the employee is under observation rules out tampering or substitution. The results of the second test are the ones that stand as the official result. The creatinine values referred to in the policy come from the [US DOT Drug Testing](#) regulations.