



Town of Chapel Hill, NC

Chapel Hill Transit/ US DOT Departmental Policy

Policy Number: PP 8-1.1

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

Chapel Hill Transit US DOT- Compliant Department

Drug And Alcohol Free Workplace Testing Policy

I. **POLICY** Some Town employees occupy positions that are regulated by the US Department of Transportation (US DOT); more specifically, by the Federal Transit Administration (FTA) and the Federal Motor Carriers Safety Administration (FMCSA). These regulations include specific provisions for random, pre-employment, post-accident, reasonable suspicion, and return-to-duty testing for covered employees to screen for prohibited substances.

The Town complies with all regulations for these covered positions. The Town’s Drug and Alcohol Free Workplace Policy, PP 8-1, complements the US DOT regulations and applies to these positions.

II. **PURPOSE** Establishing a departmental policy for positions regulated under federal authority helps us clearly Communicate workplace expectations and supports Safety and Equity in the workplace.

RESPECT Communication: We take part in constructive dialogues and set clear goals and expectations so we may better understand our roles in the workplace. Our organizational values serve as a common language when discussing each other’s decisions and actions.

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.

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.

US DOT
[49 CFR](#)
[Part 40](#)

Town of Chapel Hill
Drug and Alcohol Free Workplace Policy

Approved by Clifton Turner, Director Human Resources Development

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Chapel Hill Transit US DOT Drug and Alcohol Policy PP 8-1.1 Effective July 1, 2017 Rev. January 1, 2018

III.PROCEDURE	The Director of the Human Resources 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 Chapel Hill Transit US DOT Compliant Department Procedures						
V.ADDITIONAL CONTACTS	Human Resources 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 Chapel Hill Transit US DOT Compliant Department Procedures						
VII.RESPONSIBILITIES	Please see Chapel Hill Transit US DOT Compliant Department Procedures						
VIII.APPENDICIES	A. Chapel Hill Transit US DOT Compliant Department Procedures						
IX. FAQ	Please see Town of Chapel Hill Drug and Alcohol Policy FAQ						
X. SCOPE	As of January 1, 2016, this policy replaces and supersedes any previous Town policies, departmental policies, handbooks, or unwritten policies or practices covering the same subject.						
XI. RELATED INFORMATION	A. Town of Chapel Hill Drug and Alcohol Free Workplace Policy PP 8-1 B. Substance Abuse Supervisors Guide C. US DOT 49 CFR Part 40						
XII.POLICY HISTORY	Original policy adopted 7/1/90. Revisions in 11/92, 1995, 2005, and 8/09 re: DOT requirement to drug test jobs requiring Commercial Drivers' License. Revised 1.2011 for new FTA requirements. Revised January 1, 2018 due to DOT revisions. <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>Revised, reissued January 2018</td> </tr> </table>	Adopted August, 1999	Revised June 2011.	Reissued June 2008	Revised, reissued January 2016	Revised January 2011	Revised, reissued January 2018
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	<p>Town of Chapel Hill, NC</p> <p>Chapel Hill Transit US DOT Procedures</p>	<p>Policy Number: PP 8-1.1</p> <p>Effective Date: January 1, 2016</p> <p>Revised June 21, 2017</p> <p>Revised January 1, 2018</p>	<p>I. POLICY</p> <p>II. PURPOSE</p> <p>III. PROCEDURE</p> <p>IV. FORMS/INSTRUCTIONS</p> <p>V. ADDITIONAL CONTACTS</p> <p>VI. DEFINITIONS</p> <p>VII. RESPONSIBILITIES</p> <p>VIII. APPENDICES</p> <p>IX. FAQ</p> <p>X. SCOPE</p> <p>XI. RELATED INFORMATION</p> <p>XII. POLICY HISTORY</p>	<p>Approved By:</p>  <p>Clifton Turner, Director Human Resources Development</p>
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APPENDIX A

III. Chapel Hill Transit- US DOT Compliant Drug and Alcohol Free Workplace Testing Procedures

Table of Contents

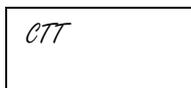
- A. [Introduction, Policy Purpose: Town Provisions Underlined](#)
- B. [Applicability](#)
 - 1. Additional Requirements for FTA, FMCSA Employees in Addition to Town Policy
- C. [Education and Training](#)
 - 1. FTA covered Employees
 - 2. Reasonable Suspicion Training
- D. [Prohibited Substances](#)
 - 1. Illegally Used Controlled Substances
 - 2. Testing for These Substances
 - 3. Legal Drugs
 - 4. Alcohol
- E. [Prohibited Conduct](#)
 - 1. Use of Prohibited Drugs
 - 2. Alcohol Consumption
 - a) Employer Responsibility
 - b) While on Duty or Reporting for Duty
 - c) Alcohol Consumption prior to Performing Safety Sensitive Duties
 - d) Alcohol Consumption anytime employee is on Duty
 - 3. Other Prohibited Activities
- F. [Drug Statute Conviction](#)
 - 1. Requirement to Notify
- G. [Testing Requirements](#)
 - 1. General Requirements

Approved by Clifton Turner, Director
Human Resources Development

CTT

Chapel Hill Transit US DOT Drug and Alcohol Policy PP 8-1.1
Effective July 1, 2017
Rev. January 1, 2018

2. Testing Performed while on Duty
 3. Condition of Ongoing Employment
- H. [Drug Testing Procedures](#)
1. Techniques and Confidentiality
 2. Types of Substances Tested for; Specific Procedures
 3. Reporting Results, Notification and Verification
 4. Direct Observation Re-test
 5. Requesting a Re-Test: Procedures
 6. Inconclusive Re-Test
 7. Handling Split Specimen
 8. Observed Collections
- I. [Alcohol Testing Procedures](#)
1. General Testing Procedures
 2. Town Policy Violations
 3. Confidentiality
 4. Forms to be Used; Employee Must Sign
- J. [Pre-employment Testing](#)
1. FTA Testing
 - a) Employment offer Conditional Upon Passing Test
 - b) Transfer and Promotion
 - c) If Applicant Tests Positive
 - d) If Existing Employee Applying for New Position Tests Positive
 - e) If Pre-Employment Test Canceled
 - f) Employee who has not Performed Safety Sensitive Functions for >90 days
 - g) Work Interruption of Less Than 90 Days
 - h) Negative Dilute Test Results
 2. FMCSA Positions
 - a) Employment Offer Conditional Upon Passing Test
 - b) New Hire
 - c) Release of Previous Drug Test Results
- K. [Reasonable Suspicion Guidelines](#)
1. Guidelines
 2. Transporting Employees to Testing: Status Pending Results
 3. Documentation
 4. Self-Referral
- L. [Post-Accident Testing](#)
1. All Covered Employees
 2. FTA Fatal Accident
 3. FMCSA Fatal Accident
 4. FTA Non-Fatal Accident
 5. FMCSA Non-Fatal Accident
 6. Notifying Employee of Need for Testing
 7. Supervisor Responsibility; Testing Timelines After an Accident
 - a) No Alcohol Use After an Accident
 - b) Employee Must Remain Available for Testing
 - c) Medical Needs Take Priority
 - d) Use of Law Enforcement Post Testing



- M. [Random Testing](#)
 - 1. Random Testing is Random
 - 2. Possible at Any Time
 - 3. Number of Employees Chosen for Testing
 - 4. Testing Pools
 - 5. US DOT Covered Employees in Separate Testing Pool
 - 6. Random Tests Conducted at Any Time: Town Authority
 - 7. Immediate Report For Testing after Notification
- N. [Return to Duty Testing](#)
- O. [Follow Up Testing](#)
 - 1. After Return to Duty
 - 2. After Self-Referral or Management Referral
- P. [Drug/Alcohol Test Results](#)
 - 1. Positive Results
 - 2. Negative Dilute Results
 - 3. Disciplinary Action
 - 4. Refusal to Test: Definition and Consequences
 - 5. Alcohol Test Results
 - 6. Town Provisions for Self or Management Referral
 - 7. Drug Offenses
- Q. [Grievance and Appeal](#)
- R. [Proper Application of the Policy](#)
- S. [Information Disclosure](#)
 - 1. Records
 - 2. Employee Right to Records
 - 3. Release on Need to Know Basis
 - 4. Release to Subsequent Employer
 - 5. Release in a Lawsuit
 - 6. Release to NTSB
 - 7. Release due to Court Order
 - 8. Release to DOT or DOT Agency
 - 9. Release to Agency with Regulatory Authority over Town
 - 10. Legal Limitations
 - 11. Other Provisions

[IV. Forms, Instructions](#)

- V. [Additional Contacts](#)
- VI. [Definitions](#)
- VII. [Responsibilities](#)
- VIII. [Appendices](#)
- IX. [Frequently Asked Questions](#)
- X. [Scope](#)
- XI. [Related Information](#)
- XII. [Policy History](#)

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A. Introduction:

1. Policy Purpose: The Town of Chapel Hill (hereinafter “the Town”) provides public transit and paratransit services for the residents of Chapel Hill, North Carolina. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, the Town declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.
2. Compliance with Federal Guidelines: Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the [Drug-Free Workplace Act of 1988](#), and the [Omnibus Transportation Employee Testing Act of 1991](#). This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit and motor carrier industries. Specifically, the [Federal Transit Administration \(FTA\) of the U.S. Department of Transportation has published 49 CFR Part 655](#), as amended, that mandates urine drug testing and breath alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result. Also, the [Federal Motor Carrier Safety Administration \(FMCSA\)](#) has published [49 CFR Part 382](#) that mandates urine drug testing and breath alcohol testing for safety-sensitive positions, and prohibits performance of these functions when there is a positive test result. The U. S. Department of Transportation (USDOT) has also published [49 CFR Part 40](#), as amended, that sets standards for the collection and testing of urine and breath specimens.
3. Town Provisions Underlined; Separation of Testing: Any provisions set forth in this policy that are included under the sole authority of the Town and are not provided under the authority of the above named Federal regulations are underlined. Tests conducted under the sole authority of the Town will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

B. Applicability:

1. Additional Requirements for FTA and FMCSA employees in addition to Town Policy: All Town employees are covered under the [Town’s Drug and Alcohol Free Workplace Policy, P P 8 -1](#). This Drug and Alcohol Testing Policy applies additional requirements to all safety-sensitive employees covered under the regulations of FTA or FMCSA (full- or part-time) when performing safety sensitive duties. See [Attachment A](#) for a list of employees covered under this policy.

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- a) For FTA employees, a safety-sensitive function includes operation of public transit service including the operation of a transit revenue service vehicle (whether or not the vehicle is in revenue service), maintenance of a transit revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, dispatchers or persons controlling the movement of transit revenue service vehicles and any other transit employee who operates a vehicle that requires a Commercial Driver's License to operate. Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment used in revenue service. A list of safety-sensitive positions who perform one or more of the above mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if they perform one of the above functions. Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL, or receive remuneration for service in excess of actual expense.
- b) For FMCSA employees, every person who operates a commercial motor vehicle in commerce in any State is covered.

C. Education and Training

- 1. Training for FTA Covered Employees: Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including [49 CFR Parts 655, 382, and 40](#), as amended. In addition, all FTA covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.
- 2. Reasonable Suspicion Training: All supervisory personnel or Town officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

D. Prohibited Substances: Prohibited Substances addressed by this policy include the following:

- 1. Illegally Used Controlled Substance or Drugs: Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in [Schedule I through V of Section 202 of the Controlled Substance Act \(21 U.S.C. 812\)](#), and as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines (including methamphetamine and ecstasy), opiates (including codeine, morphine, and heroin), phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use

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includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. Also, the medical use of marijuana, or the use of hemp related products, which cause drug or drug metabolites to be present in the body above the minimum thresholds is a violation of this policy.

2. Federal regulations (49 CFR [Part 655](#) and [382](#)) require that all employees covered under FTA and FMCSA authority be tested for marijuana, cocaine, amphetamines (including methamphetamine and ecstasy), opiates (including codeine, morphine, and heroin), and phencyclidine as described in Section H of this policy. Employees covered under Town authority will also be tested for these same substances. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.
3. Use of Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a Town supervisor. The employee should provide a doctor's note stating that the employee is able to perform job functions. This note will be kept in a secure file.
4. Alcohol: The use of beverages containing alcohol (including any mouthwash, medication, food, or candy) or any other substances such that alcohol is present in the body while performing safety-sensitive job functions is prohibited. A random or reasonable suspicion alcohol test can only be performed on a covered employee under 49 CFR [Part 655](#) or [382](#) just before, during, or just after the performance of safety-sensitive job functions. Under Town authority, a non-DOT alcohol test can be performed any time a covered employee is on duty.

E. Prohibited Conduct:

1. Use of Prohibited Drugs: All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in [49 CFR PART 40](#), as amended.
2. Alcohol Consumption: Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline for not fulfilling his/her on-call responsibilities.

- a) Employer Responsibility: The employer shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol.
 - b) While On Duty or Reporting for Duty: covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater regardless of when the alcohol was consumed.
 - c) Alcohol Consumption after an accident: No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.
 - d) Alcohol Consumption prior to performance of Safety Sensitive Duties: No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
 - e) The Town, under its own authority, also prohibits the consumption of alcohol at all times the employee is on duty, or anytime the employee is in uniform.
3. Other Prohibited Activities: Consistent with the [Drug-free Workplace Act of 1988](#), all Town employees covered under this policy are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including any premises and vehicles owned by the Town.

F. Drug Statute Conviction:

- 1. Requirement to Notify: Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify the Town management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in Section H of the [Town of Chapel Hill Drug and Alcohol Free Workplace Policy](#).

G. Testing Requirements

- 1. General Requirements: Analytical urine drug testing and breath testing for alcohol will be conducted as required by [49 CFR part 40](#) as amended. All employees covered under FTA or FMCSA authority shall be subject to testing prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and random as defined in Section K, L, M, and N of this policy, and return to duty/follow-up. All employees covered under Town authority will also be subject to testing for reasonable suspicion, post-accident, random and return to duty/follow-up using non-DOT testing forms.

- 2. Performed While on Duty: A drug test can be performed any time a covered employee is on

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duty. A reasonable suspicion and random alcohol test can only be performed just before, during, or after the performance of a safety-sensitive job function. Under Town authority, a non- DOT alcohol test can be performed any time a covered employee is on duty.

3. Condition of Ongoing Employment: All covered employees will be subject to urine drug testing and breath alcohol testing as a condition of ongoing employment with the Town. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in Section J-2 of the [Town of Chapel Hill Drug and Alcohol Free Workplace Policy](#).

H. Drug Testing Procedures:

1. Techniques, Confidentiality: Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in [49 CFR Part 40](#), as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.
2. Types of Substances Tested for; Specific Procedures; Split Specimen: The drugs that will be tested for include marijuana, cocaine, opiates (including codeine, morphine, and heroin), amphetamines (including methamphetamine and ecstasy), and phencyclidine. After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in [49 CFR Part 40](#), as amended. Each specimen will be accompanied by a [DOT Custody and Control Form](#) and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.
3. Reporting Results, Notification, and Verification: The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result, and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a

legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to the Town Drug and Alcohol Program Manager (DAPM). If a legitimate explanation is found, the MRO will report the test result as negative to the DAPM.

4. Direct Observation Retest: If the test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.

5. Requesting a Retest; Procedures for Retest: Any covered employee who questions the results of a required drug test under paragraphs L through P of this policy may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. Town will ensure that the cost for the split specimen are covered in order for a timely analysis of the sample, however, Town may seek reimbursement for the split sample test from the employee according to the provisions of K.4.d of the Town's policy.

6. If Re-Test is Inconclusive: If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled. If the split specimen is not available to analyze the MRO will direct the Town to retest the employee under direct observation.

7. How a Split Specimen is Handled: The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary specimen is positive, it will be retained in frozen storage for one year and the split specimen will also be retained for one year. If the primary is positive, the primary and the split will be retained for longer than one year for testing if so requested by the employee through the Medical Review Officer (MRO), or by the employer, by the MRO, or by the relevant DOT agency.

8. Observed Collections:
 - a) Consistent with 49 CFR part 40, as amended, collection under direct observation (by a person of the same gender) with no advance notice will occur if:

- i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to the Town that there was not an adequate medical explanation for the result;
- ii. The MRO reports to the Town that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
- iii. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen to you as negative-dilute and that a second collection must take place under direct observation (see [§40.197\(b\)\(1\)](#)).
- iv. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- v. The temperature on the original specimen was out of range;
- vi. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with.
- vii. All follow-up-tests or return-to-duty tests.

I. Alcohol Testing Procedures

1. General Testing Procedures: Tests for breath alcohol concentration will be conducted utilizing a [National Highway Traffic Safety Administration \(NHTSA\)-approved Evidential Breath Testing device \(EBT\) operated by a trained Breath Alcohol Technician \(BAT\)](#). Alcohol screening tests may be performed using a non-evidential testing device which is also approved by NHTSA. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

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2. Town Policy Violations: Under Town Authority, an employee who has a confirmed alcohol concentration of 0.02-0.039 will be considered in violation of the Town's policy. An employee who has a confirmed alcohol concentration of 0.04 or greater will be considered to have a positive alcohol test result and in violation of this Policy. The consequences for a positive alcohol test are described in Section L of the [Town of Chapel Hill Drug and Alcohol Free Workplace Policy](#). Employees who have an alcohol test result of 0.02-0.039 in violation of this policy shall be removed from duty for at least twenty-four hours and will be subject to the consequences described in Section Q of this policy. An alcohol concentration of less than 0.02 will be considered a negative test.
3. Confidentiality: The Town affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.
4. Form to be Used; Employee Must Sign: The [alcohol testing form \(ATF\) required by 49 CFR Part 40](#) as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

J. Pre-Employment Testing

1. FTA Testing: All applicants for **covered FTA** positions shall undergo urine drug testing prior to performance of a safety-sensitive function.
 - a. Employment Offers Conditional Upon Passing Drug Test: All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant will not be allowed to perform safety-sensitive functions unless the applicant takes a drug test with verified negative results.
 - b. Transfers and Promotions: An employee shall not be placed, transferred or promoted into a position covered under FTA authority or Town authority until the employee takes a drug test with verified negative results.
 - c. Procedures if Applicant Tests Positive: If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded and the applicant will be referred to a Substance Abuse Professional. Before being considered for future employment, the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of

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subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.

- d. Procedures if Existing Employee Tests Positive: When an employee being placed, transferred, or promoted from a non-covered position to a position covered under FTA authority or Town authority submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with Section Q herein.
 - e. Pre-Employment Test Canceled: If a pre-employment test is canceled, the Town will require the applicant to take and pass another pre-employment drug test.
 - f. Employee who has not Performed Safety Sensitive Functions for 90 or more days is Required to Pass a Drug Test before Resuming Duties: When an FTA covered employee or applicant has not performed a safety-sensitive function for 90 or more consecutive days, regardless of the reason (temporary layoff, vacation, leave of absence, lost time, FMLA, Worker's Compensation claim, etc.), and the employee has not been in the random selection pool during that time, the Town will ensure that the employee takes a DOT pre-employment drug test with a verified negative result prior to resuming safety-sensitive functions.
 - g. Work Interruption of Less than 90 Days: In cases of leave **less than** 30 days, when the employee has not been taken out of the random pool, a DOT pre-employment test is NOT required prior to returning to a safety-sensitive position. However, under the sole authority of the Town, if the leave extends **beyond** 30 days, but less than 90 days, the employee must have a NON-DOT pre-employment test with verified negative results prior to resuming safety-sensitive functions. These NON-DOT tests will be conducted utilizing NON-DOT testing forms.
 - h. Negative Dilute Test Results: Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
2. Applicants for FMCSA Positions: All applicants for covered FMCSA positions (that will solely perform FMCSA safety-sensitive functions) shall undergo urine drug testing prior to performance of a safety-sensitive function.
- a) Offers Conditional Upon Passing Drug Test: All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant will not

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be allowed to perform safety-sensitive functions until the applicant takes a drug test with verified negative results,.

- b) Pre-Employment Testing for All New Hires: The Town's [Drug and Alcohol Free Workplace Policy](#), Section I.1, requires pre-employment testing for all new hires. All new hires will be tested under the Town's authority. Applicants for positions covered by FTA or FMCSA will be administered a DOT pre-employment screening test as well as a Town of Chapel Hill pre-employment screening test.

- c) Release of Previous Drug Test Results: Applicants of FTA and/or FMCSA covered positions are required (even if ultimately not hired) to provide the Town with signed written releases requesting USDOT drug and alcohol records from all previous, USDOT-covered, employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. The Town is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a DOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a DOT covered employer, the applicant must provide the Town proof of having successfully completed a referral, evaluation and treatment plan as described in 49 CFR Part 40, subpart O.

K. Reasonable Suspicion Testing

- 1. Reasonable Suspicion Guidelines: All Town employees covered under this policy will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under the Town's authority, Section I-3, a NON- DOT reasonable suspicion alcohol test may be performed any time the covered employee is on duty. A reasonable suspicion drug test can be performed any time the covered employee is on duty.

- 2. Transporting Employee to Testing; Employee Placed on Leave Pending Results:
The Town shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the

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physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action described in Section K.2.b of the Town of Chapel Hill Drug and Alcohol Free Workplace Policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in Section J.2 of the [Town of Chapel Hill Drug and Alcohol Free Workplace Policy](#).

3. Documentation of Reasonable Suspicion: A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to the Town Drug and Alcohol Program Manager.
4. Self Referral: When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the employee shall be referred for assessment and treatment consistent with Section P of this policy. The Town shall remove the employee from service in accordance with the provisions set forth under Section P of this policy. Testing in this circumstance would be performed under the direct authority of the Town. **Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority.** However, self-referral does not exempt the covered employee from testing under Federal authority as specified in Sections L through N of this policy or the associated consequences as specified in Sections P and Q.

L. Post-Accident Testing

1. All Covered Employees: All covered employees will be required to undergo urine and breath testing if they are involved in an accident as defined in Section VI of this policy.
2. FTA Fatal Accident - All FTA covered employees involved in an accident with a transit vehicle regardless of whether or not the vehicle is in revenue service that results in a fatality will be tested, including all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the accident.
3. FMCSA Fatal Accident - All FMCSA covered drivers who were performing safety-sensitive functions with respect to the vehicle involved in a accident with a commercial motor vehicle operating on a public road in commerce that results in a fatality will be tested.
4. FTA Non-Fatal Accident - A FTA post-accident test of the operator will be conducted if an accident results in injuries requiring immediate transportation to a medical treatment facility; or one or more vehicles incurs disabling damage, unless the operator's performance can be

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completely discounted as a contributing factor to the accident. In addition, any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision, will also be tested.

5. FMCSA Non-Fatal Accident - As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, and not involving the loss of a human life, an alcohol test will be conducted on each driver who receives a citation within eight (8) hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if:
- The accident results in injuries requiring immediate medical treatment away from the scene; or
 - One or more motor vehicles incur disabling damage and must be transported away from the scene by a tow truck or other motor vehicle.

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, and not involving the loss of a human life, a drug test will be conducted on each driver who receives a citation within thirty-two (32) hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if:

- The accident results in injuries requiring immediate medical treatment away from the scene; or
 - One or more motor vehicles incur disabling damage and must be transported away from the scene by a tow truck or other motor vehicle.
6. Notifying Employee of Need for Testing: As soon as practicable following an accident, as defined in this policy, the supervisor investigating the accident will notify the covered employee(s) operating of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.
7. Supervisor Responsibility; Testing Timelines after an Accident: The appropriate supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours of the accident for alcohol, and no longer than 32 hours for drugs. If an alcohol test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.
- a) No Alcohol Use after an Accident: Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test.

- b) Employee Must Remain Available for Testing: An employee who is subject to post-

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accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.

- c) Medical Needs Take Priority: Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

Use of Law Enforcement Post Accident Drug Tests: In the rare event that the Town is unable to perform an FTA/FMCSA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), the Town may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FTA/FMCSA test. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

M. Random Testing

1. Random Testing is Random: All covered employees will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees. Employees designated as Safety Sensitive by the Town, but not covered under FTA or FMCSA regulations, are grouped into a separate NON-DOT random testing pool and selected from this pool.
2. Random Testing Possible at any Time: The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.
3. Number of Employees Chosen for Testing: The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates established by Federal regulations for those safety-sensitive employees subject to random testing by Federal regulations.
4. Testing Pools: Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
5. US DOT Covered Employees in Separate Testing Pool: Covered employees that fall under the

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USDOT regulations will be included in random pools maintained separately from the testing pool of employees that are included solely under the Town authority.

6. Random Tests Can be Conducted at Any Time: Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can only be performed just before, during, or just after the performance of a safety sensitive duty. However, under the Town's authority, a non-DOT random alcohol test may be performed any time the covered employee is on duty. Testing can occur during the beginning, middle, or end of an employee's shift.
7. Employees must Report Immediately Upon Notification: Employees are required to proceed immediately to the collection site upon notification of their random selection.

N. Return-To-Duty Testing

1. The Town will terminate the employment of any employee that tests positive or refuses a test as specified in section P and Q of this policy. However, in the rare event an employee is reinstated with court order or other action beyond the control of the transit system, the employee must completed the return-to-duty process prior to the performance of safety-sensitive functions. All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work. For an initial positive drug test a Return-to-Duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test a Return-to-Duty alcohol test is required and a drug test is allowed. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undo concerns for public safety.

O. Follow-Up Testing:

1. Testing after Return to Duty: Covered employees that have returned to duty following a positive or refused a test will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty test. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.
2. In the instance of a self-referral or a management referral, the employee will be subject to non-USDOT follow-up tests and follow-up testing plans modeled using the process described in 49 CFR Part 40. However, all non-USDOT follow-up tests and all paperwork associated with an employ-

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ye'e's return-to-work agreement that was not precipitated by a positive test result (or refusal to test) does not constitute a violation of the Federal regulations will be conducted under Town authority and will be performed using non-DOT testing forms

P. Result Of Drug/Alcohol Test:

1. Positive Test Results: Any covered employee that has a verified positive drug or alcohol test, or test refusal, will be removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available, referred to a Substance Abuse Professional (SAP) for assessment, and will be subject to disciplinary action up to and including termination as specified in Section L of the [Town's Drug and Alcohol Free Workplace Policy and Procedures](#). this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
3. Disciplinary Action: A positive drug and/or alcohol test will also result in disciplinary action as specified Section L of the [Town of Chapel Hill Drug and Alcohol Free Workplace Policy and Procedures](#).
4. Refusal to Test: Refusal to submit to a drug/alcohol test shall be considered equivalent to a positive test result and shall result in termination and referral to an SAP. A test refusal includes the following circumstances:
 - a) Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer
 - b) Fails to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
 - c) Fails to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
 - d) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen
 - e) Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure
 - f) Fails or declines to take a second test the employer or collector has directed you to take
 - g) Fails to undergo a medical examination or evaluation, as directed by the MRO or as directed by the DER
 - h) Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the

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collection process)

- i) If the MRO reports that there is verified adulterated or substituted test result
- j) Failure or refusal to sign Step 2 of the alcohol testing form
- k) Failure to follow the observer's instructions during an observed collection including instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
- l) Possess or wear a prosthetic or other device that could be used to interfere with the collection process
- m) Admit to the collector or MRO that you adulterated or substituted the specimen.
- n) Fail to remain readily available following an accident.

5. Alcohol Test Results: An alcohol test result of ≥ 0.02 to ≤ 0.039 BAC is considered a violation of this policy and shall result in the removal of the employee from duty for twenty-four hours
[Alcohol Free Workplace Policy and Procedures.](#)

6. In the instance of a self-referral or a management referral, The Town will follow the provisions as listed in The Town of Chapel Hill's Drug and Alcohol Free Workplace Policy and Procedures. All tests conducted as part of this process will be conducted under Town authority and will be performed using NON-DOT testing forms. A self-referral or management referral that was not precipitated by a positive DOT test result does not constitute a violation of the Federal regulations and will not be considered a positive test."

- a) A Voluntary Referral does not shield an employee from disciplinary action under the Town's authority or guarantee employment with the Town.
- b) A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.

7. Drug Offenses:

- a) Drug Related Offenses - Employees who are charged and/or convicted of a controlled substance related violation under state or federal law must inform Chapel Hill Transit within five days of such charge or conviction or the next scheduled work day, whichever occurs first.
- b) Alcohol Related Offenses – Employees who are charged or convicted of alcohol related violations under state or federal law must inform their supervisor or DAPM within five days of such charge or conviction or the next scheduled work day, whichever is less.
- c) Failure of an employee to comply is in violation of this policy. The employee will be subject to discipline as outlined in Section H of the Town of Chapel Hill Drug and

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Alcohol Free Workplace Policy and Procedures.

Q. Grievance and Appeal:

Employees who desire to grieve any disciplinary actions issued for violations of this policy, shall do so in accordance with the Town's Grievance Procedure. However, the scope of authority of the Medical Review Officer as specified by [49 CFR Part 40.149\(c\)](#) is not subject to grievance or arbitration.

R. Proper Application of the Policy

The Town is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

S. Information Disclosure

1. Records: Drug/alcohol testing records shall be maintained by the Town's Human Resources Development Department and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested employee.
2. Employees Right to Records: The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.
3. Records Released on Need to Know Basis: Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, and other transit system management personnel on a need to know basis.
4. Release to Subsequent Employer: Records will be released to a subsequent employer only upon receipt of a written request from the employee.
5. Release in Lawsuit: Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the proceeding.
6. Release to NTSB: Records will be released to the National Transportation Safety Board during

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an accident investigation.

7. Release Due to Court Order: Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.
8. Release to DOT or DOT Agency: Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
9. Release to Agency with Regulatory Authority over the Town: Records will be released if requested by a Federal, state or local safety agency with regulatory authority over the Town or the employee.
10. Legal Limitations: If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken.
11. Other Provisions: In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA/FMCSA.

IV. FORMS/INSTRUCTIONS:

Substance Abuse Supervisors Guide

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

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VI. DEFINITIONS

- A. **FMCSA Accident:** occurrence involving a commercial motor vehicle operating on a public road in commerce and
1. A loss of human life; or
 2. Bodily injury and immediately receives medical treatment away from the scene of the accident AND a citation was issued within 8 hours of the occurrence under State or local law for a moving violation arising from the accident; or
 3. One or more motor vehicles incur disabling damage as the result of the occurrence AND a citation was issued within 8 hours of the occurrence under State or local law for a moving violation arising from the accident.
- B. **FTA Accident:** An occurrence associated with the operation of a vehicle even when not in revenue service, if as a result:
1. An individual dies;
 2. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
 3. One or more vehicles incur disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, *disabling damage* means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.
- C. **Adulterated specimen:** A specimen that has been altered, as evidence by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.
- D. **Alcohol:** The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.
- E. **Alcohol Concentration:** Expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under 49 CFR Part 40.
- F. **Aliquot:** A fractional part of a specimen used for testing; It is taken as a sample representing the whole specimen.
- G. **Canceled Test:** A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which is cancelled. A canceled test is neither positive nor negative.

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H. **Commerce:** means

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

I. **Commercial Motor Vehicle:** a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle

1. Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater; or
2. Has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 or more pounds), whichever is greater; or
3. Is designed to transport 16 or more passengers, including the driver; or
4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

J. **Confirmatory Drug Test:** A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or metabolite.

K. **Confirmatory Validity Test:** A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

L. **Covered Employee Under FTA Authority:** An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function (See Attachment A for a list of covered employees).

M. **Covered Employee Under FMCSA Authority:** Every person who operates a commercial motor vehicle in commerce in any State and is subject to [382.103\(a\)\(b\)\(c\)](#)

N. **Covered Employee Under Town Authority:** An employee, applicant, or transferee that will not perform a safety-sensitive function as defined by FTA but is included under the Town's own authority.

O. **Designated Employer Representative (DER):** An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required

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decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

- P. **Department of Transportation (DOT):** For the purposes of Drug and Alcohol testing regulatory oversight, DOT is the department of the federal government which includes the, Federal Transit Administration, Federal Railroad Administration, Federal Aviation Administration, Federal Motor Carriers' Safety Administration, Pipeline & Hazardous Materials Safety Administration, United States Coast Guard, and the Office of the Secretary of Transportation.
- Q. **Dilute specimen:** A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.
- R. **Disabling damage:** Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.
- S. **Evidentiary Breath Testing Device (EBT):** A Device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations. Approved devices are listed on the National Highway Traffic Safety Administration (NHTSA) conforming products list.
- T. **Initial Drug Test: (Screening Drug Test)** The test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.
- U. **Initial Specimen Validity Test:** The first test used to determine if a urine specimen is adulterated, diluted, substituted, or invalid
- V. **Invalid Result:** The result reported by an HHS-certified laboratory in accordance with the criteria established by the HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.
- W. **Laboratory:** Any U.S. laboratory certified by HHS under the National Laboratory Certification program as meeting standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.
- X. **Limit of Detection (LOD):** The lowest concentration at which a measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.
- Y. **Limit of Quantitation:** For quantitative assays, the lowest concentration at which the identity and

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concentration of the measurand can be accurately established.

- Z. **Medical Review Officer (MRO):** A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

- AA. **Negative Dilute:** A drug test result which is negative for the five drug/drug metabolites but has a specific gravity value lower than expected for human urine.

- BB. **Negative result:** The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

- CC. **Non-negative test result:** A urine specimen that is reported as adulterated, substituted, invalid, or positive for drug/drug metabolites.

- DD. **Oxidizing Adulterant:** A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or metabolites, or affects the reagents in either the initial or confirmatory drug test.

- EE. **Performing (a safety-sensitive function):** A covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

- FF. **Positive result:** The result reported by an HHS- Certified laboratory when a specimen contains a drug or drug metabolite equal or greater to the cutoff concentrations.

- GG. **Prohibited drug:** Identified as marijuana, cocaine, opiates, amphetamines , or phencyclidine at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

- HH. **Reconfirmed:** The result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

- II. **Rejected for Testing:** The result reported by an HHS- Certified laboratory when no tests are performed for specimen because of a fatal flaw or a correctable flaw that has not been corrected.

- JJ. **Revenue Service Vehicles:** All transit vehicles that are used for passenger transportation service.

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KK. **Safety-sensitive functions for FTA Employees:** Employee duties identified as:

1. The operation of a transit revenue service vehicle even when the vehicle is not in revenue service.
2. The operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Driver's License (CDL).
3. Maintaining a revenue service vehicle or equipment used in revenue service.
4. Controlling the movement of a revenue service vehicle and
5. Carrying a firearm for security purposes.

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

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

MM. **Split Specimen Collection:** A collection in which the urine collected is divided into two separate bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

NN. **Substance Abuse Professional (SAP):** A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed marriage and family therapist, or drug and alcohol counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse(ICRC) or by the National Board for Certified Counselors, Inc. and Affiliates/Master Addictions Counselor (NBCC)) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

OO. **Substituted specimen:** A urine specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine.

PP. **Test Refusal:** The following are considered a refusal to test if the employee:

1. Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer
2. Fails to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
3. Fails to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
4. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen
5. Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure
6. Fails or declines to take a second test the employer or collector has directed you to take
7. Fails to undergo a medical examination or evaluation, as directed by the MRO or as directed by the DER
8. Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process)
9. If the MRO reports that there is verified adulterated or substituted test result
10. Failure or refusal to sign Step 2 of the alcohol testing form
11. Failure to follow the observer's instructions during an observed collection including instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if the employee has any type of prosthetic or other device that could be used to interfere with the collection process.
12. Possess or wear a prosthetic or other device that could be used to interfere with the collection process
13. Admit to the collector or MRO that he/she adulterated or substituted the specimen.
14. Fail to remain readily available following an accident.

QQ. **Verified negative test:** A drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use above the minimum cutoff levels established by the Department of Health and Human Services (HHS).

RR. **Verified positive test:** A drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

SS. **Validity testing:** The evaluation of the specimen to determine if it is consistent with normal human

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urine. Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

VII. RESPONSIBILITIES

All Employees are expected to:

- a) Be aware of and comply with the Town's Drug and Alcohol Free Workplace Policy
- b) Ask questions about anything they do not understand
- c) Know the safety sensitive status of their position
- d) Comply with all testing requests

All Supervisors/Managers are expected to:

- a) Complete Reasonable Suspicion Training
- b) Refer employees for substance testing when appropriate under post accident, reasonable suspicion, or random drug testing guidelines; facilitate testing procedures
- c) Maintain strict confidentiality
- d) Administer Garrity Warnings

All Department Heads are expected to:

- a) Assure that all supervisors and managers complete reasonable suspicion
- b) Comply with all testing procedures
- c) Assure that supervisors and managers understand the testing procedures
- d) Assure the appropriate policy and procedure training occurs on a regular basis

All Human Resource Development staff members are expected to:

- a) Provide policy guidance and support to all employees
- b) Help train all employees on the policy and procedures
- c) Maintain strict confidentiality
- d) Assure that all new hires are drug tested

VIII. APPENDICES

- A. [Attachment A](#): List of FTA and FMCSA Positions within the Town of Chapel Hill
- B. [Attachment B](#): Contact List

IX. FREQUENTLY ASKED QUESTIONS

[Town of Chapel Hill Drug and Alcohol Free Workplace FAQ](#)

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X. SCOPE

This policy and procedure applies to all Town of Chapel Hill employees covered under Federal Transit Administration and Federal Motor Carriers Safety Administration regulations and supplements the Town's Drug and Alcohol Free Workplace Policy and Procedures.

XI. RELATED INFORMATION

[Town of Chapel Hill Drug and Alcohol Free Workplace Policy and Procedures](#)

XII: POLICY HISTORY:

1. Initial Drug and Alcohol Abuse Policy adopted 7/1/90.
2. Revisions adopted in 11/92, 1995, and FY 2005, and 8/2009 with the requirement by federal DOT to drug test jobs requiring Commercial Drivers' License.
3. Additional revisions made January 2011 to address Federal Transit Administration requirements for those employees covered under Federal Transit Administration Regulations.
4. Amended and Reissued: January 1, 2016

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Attachment A
Chapel Hill Transit
List of Safety Sensitive FTA/FMCSA Positions*
As of December 3, 2015



Federal Transit Administration (FTA)	Federal Motor Carriers Safety Act (FMCSA)
Assistant Operations Mgr. – Fixed Route	Construction Crew Supervisor
Assistant Director, Operations	CW III - Construction Worker
Assistant Maintenance Manager	Drainage Crew Supervisor
Bus Service Attendant	Lead Construction Worker
Bus Service Technician	Lead Traffic Signal Technician
Safety Coordinator	Mechanic I, II, III
Parts Clerk	Senior Heavy Equipment Operator
Parts Manager	Senior Street Sweeper Equipment Operator
Transit Maintenance Manager	Solid Waste Equipment Operator II
Transit Mechanic Helper	Solid Waste Equipment Operator III
Transit Mechanic I, II, III	Solid Waste Services Supervisor
Transit Mechanic Supervisor	Street Crew Supervisor
Transit Operations Manager - Demand Response	Street Sweeper Equipment Operator
Transit Operations Manager - Fixed Route	Traffic Signal Technician I, II, III
Transit Operator - Demand Response	
Transit Operator - Fixed Route	
Transit Operations Supervisor	
Training Coordinator	

*this list may be periodically updated and modified

Approved by Clifton Turner, Director
 Human Resources Development

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Chapel Hill Transit US DOT Drug and Alcohol Policy PP 8-1.1
 Effective July 1, 2017
 Rev. January 1, 2018



Attachment B
Town of Chapel Hill Contact List

Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the following individual(s).

Chapel Hill Transit Drug and Alcohol Program Manager

Title: Safety Coordinator

Address: 6900 Millhouse Road, Chapel Hill, NC 27516

Telephone Number: (919) 969-4938

Town of Chapel Hill Drug and Alcohol Program Manager

Title: Safety and Risk Management Officer

Address: 405 Martin Luther King Jr., Blvd, Chapel Hill, NC 27514

Medical Review Officer

Title: Medical Review Officer

Address: 6008 Pebble Lane Ct., W. Bloomfield, MI. 48322

Telephone Number: (248) 467-1590

Substance Abuse Professional

Name: Douglas Brigham

Title: Substance Abuse Professional, Frank Horton Associates

Address: 3724 National Drive, Suite 101, Raleigh, NC 27612

Telephone Number: (919) 850-9825

HHS Certified Laboratory Primary Specimen

Name: Labcorp

Address: 500 Perimeter Park Dr., Morrisville, NC 27560

Telephone Number: (919) 481-5200

HHS Certified Laboratory Split Specimen

Name: Quest Diagnostic

Address: 10101 Renner Blvd., Lenexa, KS 66300

Telephone Number: (800) 877-7484

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