

Substance Abuse

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1.0 POLICY

The Town of Carolina Beach is committed to a drug-free workplace. The Town will not tolerate employees reporting to work with their ability to perform impaired by alcohol, illegal drugs, or intentionally and inappropriately using prescriptions, over-the-counter drugs, or other chemicals and substances.

2.0 PURPOSE

The Town complies with the Drug Free Workplace Act of 1988 which prohibits "the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance" in the workplace. In addition, the Town's commitment to a drug-free workplace is based on the premise that it is the Town's responsibility to maintain a safe and healthy working environment for employees and a productive, effective work force for the citizens of Carolina Beach. To ensure a safe and productive workplace, the Town provides for corrective action, up to and including termination, against all employees for infractions of this policy.

3.0 SCOPE

This policy applies to all Town of Carolina Beach employees.

4.0 DEFINITIONS

- **4.1 Accident** – means a Major Automobile Accident or any event occurring while an employee is on duty that results in death, bodily injury, or property damage that was not expected or intended to happen.
- **4.2 Alcohol Test** – means a test for the presence of alcohol in the breath or blood of an employee
- **4.3 Breath Alcohol Test (BAT)** - A breathing scan test to detect the presence of alcohol in the system.
- **4.4 Blood Level Alcohol Test** - A blood level test to determine the exact amount of alcohol in the system.
- **4.5 Commercial Vehicle** - means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:
 - Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds.
 - Has a gross vehicle weight rating of 26,001 or more pounds;
 - Is designed to transport 16 or more passengers, including the driver; or
 - Is of any size and is used in the transportation of materials found to be hazardous for the purpose of the Hazardous Materials Transportation Act and that requires the motor vehicle to be placarded under the Hazardous Materials Regulations.
- **4.6 Confirmation Test for Alcohol** means a second test, following a test with a result of 0.02 or greater, that provides quantitative data about alcohol concentration. Confirmation test for drugs means a second analytical procedure to identify the presence of a specific drug or metabolite that is independent of the test and that uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy.
- **4.7 Guilty** – means a finding of guilt, a plea of guilt, a plea of nolo contendere, or imposition of sentence by any judicial body charged with the responsibility to determine violations of federal or state criminal drug statutes.

- **4.8 Covered Applicant** – means an applicant for employment that involves the performance of a Safety Sensitive Function. This also includes persons in the pre-employment, promotions, demotions, and transfer process.
- **4.9 Covered Employee** - means an employee whose job involves the performance of a Safety Sensitive function. Covered employees include, but are not limited to, covered employees who drive Commercial Vehicles.
- **4.10 Criminal Drug Statue** - means a criminal statue relating to the manufacture, distribution, dispensation use or possession of any drug.
- **4.11 DOT** - means the United States Department of Transportation.
- **4.12 Drug** - Any controlled substance as defined in North Carolina General Statute 90-87(5) or a metabolite thereof. These substances include but are not limited to marijuana, cocaine, heroin, alcohol, opiates, amphetamines, and synthetically produced drugs or other impairing substances. This also includes prescription drugs at levels above those prescribed by a physician or any level of prescription drugs not prescribed to the employee. This also includes any other substance that may be determined to reduce work efficiency.
- **4.13 Major Vehicle Accident** – means an occurrence involving the operation of a vehicle that results in 1) a fatality; 2) bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or 3) one or more 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.
- **4.14 Medical Review Officer (MRO)** – means a properly licensed physician with specific training in the area of substance abuse. The MRO not only has knowledge of substance-abuse disorders, but also has been trained to interpret and evaluate laboratory test results in conjunction with an employee’s medical history.
- **4.15 Pass** – means with respect to an alcohol test means the test showed no evidence or insufficient evidence of a prohibited level of alcohol. Pass with respect to a drug test means that the test showed either a) no evidence or insufficient evidence of a prohibited drug or drug metabolite, or b) evidence of a prohibited drug or drug metabolite, but there was a legitimate medical explanation for the result as determined by an MRO.
- **4.16 Positive** – with respect to the results of an alcohol test, means the presence of alcohol in an employee’s system in a concentration of 0.04 or greater. Positive, with respect to the results of a drug test, means 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 SAMHSA, or for drugs not subject to SAMHSA guidelines, at the levels identified by the Town, if any.
- **4.17 Urine Drug Test** - A urinalysis immunoassay screen followed by a gas chromatography/mass spectrometry confirmation test for positive screens.
- **4.18 SAMSHA** - The Substance Abuse and Mental Health Services Administration (SAMSHA) has established strict standards for laboratories engaged in urine drug testing and which certifies those laboratories which have met those standards.
- **4.19 Reasonable Suspicion** – means a well-founded belief, as determined by an employee’s supervisor, that the employee is engaged in the improper use of alcohol or drugs in violation of this Policy based on the following criteria:
 - Direct observation of alcohol or drug use or possession;
 - Direct observation of common physical symptoms of being under the influence of alcohol or drugs, such as impairment of motor functions or speech;
 - Arrest or conviction for an alcohol or drug related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use or distribution;
 - Information provided by reliable and creditable sources or independently corroborated;
 - Newly discovered evidence that the employee tampered with a previous alcohol or drug test.

- **4.20 Safety-Sensitive Function for all covered employees who drive Commercial Vehicles means:** Operating a non-transit commercial motor vehicle requiring a Commercial Driver’s License to be operated.
- **4.21 Safety-Sensitive functions for all other employees covered under the sole authority of the Town of Carolina Beach** means a job function that a) requires the employee to hold a CDL; or b) the dereliction of which may likely cause a serious and immediate threat to public safety; including:
 - Driving a motor vehicle on a regular basis, unless the percentage of work time spent driving is negligible;
 - Operating heavy machinery;
 - Maintaining or inspecting motor vehicles or heavy machinery;
 - Dispatching emergency services
 - Handling hazardous chemicals
 - Wastewater treatment operations;
 - Direct patient health care; or
 - Lifeguard
- **4.22 Unacceptable Behaviors** - Examples of substance abuse related behaviors which will not be tolerated by the Town include, but are not limited to:
 - A. Reporting to work impaired.
 - B. The illegal use, sale, manufacture, possession, or distribution of drugs.
 - C. The illegal use, sale, possession, or distribution of alcohol while at work.
 - D. The inappropriate use of prescription or over-the-counter drugs or to the extent that it impairs the employee's ability to perform his job, unless such use has been cleared by Town authorities.
 - E. Use of prescription drugs not prescribed to the employee taking the drug.
 - F. Commission of a crime involving the use, possession, sale, manufacture or distribution of any controlled substance.
 - G. Failure to report to the supervisor within two days of the charge of a violation of a criminal drug statute.
- **4.23 Workplace** – means the location or facility where an employee may be expected to perform any task related to the requirements of his or her job. This includes break rooms and restrooms, outdoor work sites, Town vehicles, personal vehicles while being used for Town business, computer work stations, conference rooms, hallways, private offices, open/portioned work areas, public contact/customer service areas, and parking lots.
- **4.24 Town Substance Abuse Program (TSAP)** - A process in the Employee Assistance Program (EAP) where approved Town employees may continue employment while under the direction of the Human Resource Director and an approved substance abuse counselor.
- **4.25 Administrative Leave** - Paid leave a department may use while conducting an investigation into an alleged employee misconduct/policy violation/performance related issue. Administrative leave is not, in itself, a corrective action and is not subject to appeal. All Administrative Leave must receive prior approval of the Town Manager.
- **4.26 Suspension** - Corrective action in which an employee is placed out of work for a period of time without pay. Suspensions may be appealed as set forth in this policy manual.

5.0 ORGANIZATIONAL RULES

5.1 Alcohol

- The manufacture, distribution, dispensation, possession, storage, purchase, or use of alcohol by Town employees while on duty is prohibited and constitutes grounds for immediate termination.
- No employee shall report for duty or remain on duty while having an alcohol concentration of 0.02 or greater.
- No Covered Employee shall use alcohol within four (4) hours before going on duty.

- No employee involved in an Accident that requires an alcohol test pursuant to this Policy shall consume any alcohol for eight (8) hours following the Accident or until the test is performed, whichever comes first.
- An employee who: (i) refuses to submit to an alcohol test or fails to follow through with an alcohol test when testing is required by this Policy, or (ii) reports or remains on duty with an alcohol concentration of 0.04 or greater will be subject to termination. The employee will be removed immediately from duty and referred to the TSAP. However, before proceeding with disciplinary action, the employee's department head must assure that the facts of the case are reviewed by the Town Manager or his designee.
- An employee who is tested and found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall not perform or continue to perform his or her job functions until the start of the employee's next regularly scheduled duty period, but not less than twenty-four (24) hours following administration of the test unless a confirmation test results in an alcohol concentration of less than 0.02. The employee shall be removed from duty without pay for this twenty-four (24) hour period and shall receive a notation in his or her performance appraisal about the requirement of reporting to work without the presence of alcohol in his or her system.
- Under the sole authority of the Town of Carolina Beach, an employee who is terminated as a result of a positive alcohol test will not be considered for re-employment for a period of two (2) years from the date of the test.
- **A Covered Employee who drives a Commercial Vehicle or a Covered Mass Transit Employee** who: (i) refuses a required alcohol test or (2) has a confirmed alcohol test result of 0.04 or greater may not subsequently perform any Safety-sensitive Function for the Town unless and until he or she completes a EAP evaluation, referral, and education/treatment process, and shall be subject to return-to-duty and follow up testing, as set forth in 49 C.F.R. Part 40, as amended.

5.2 Drugs

- The unlawful manufacture, distribution, dispensation, possession, purchase, or use of drugs by employees is prohibited and constitutes grounds for immediate termination.
- No employee shall report for duty or remain on duty while under the influence of drugs.
- Under the sole authority of the Town, an employee shall inform his or her supervisor if, prior to beginning work or while he or she is on duty, he or she has used or intends to use any prescription medication, over-the-counter medication, or other substance that might impair his or her ability to satisfactorily perform duties. Employees are responsible for a thorough understanding of the effects and potential side effects of medications or other chemical substances taken. Failure to notify the supervisor under these circumstances may result in disciplinary action up to and including termination. However, before proceeding with disciplinary action, the employee's department head must assure that the facts of the case are reviewed by the Town Manager or his designee.
- An employee who: (i) refuses to submit to, or fails to follow through when testing is required by this Policy or (ii) has a verified positive drug test will be subject to termination. The employee will be removed immediately from duty. However, before proceeding with disciplinary action, the employee's department head must assure that the facts of the case are reviewed by the Town Manager or his designee.
- Under the sole authority of the Town, an employee who is terminated as a result of a positive drug test may not be considered for re-employment for a period of two (2) years from the date of the test.

5.3 Supervisor Responsibilities

Every supervisor shall:

- Consistently apply this Policy to all employees under his or her supervision. A supervisor who fails to apply this Policy when he or she believes, or reasonably should

believe, that an employee under his or her supervision has committed a violation, will be disciplined.

- Initiate the process for having an employee drug or alcohol tested, by notifying the Department Head, if there is Reasonable Suspicion that an employee under his or her supervision, when such employee is on duty, has an illegal drug or alcohol in his or her system or is using any legal drug in a manner other than it was intended.
- Insure that all employees he or she supervises receive training on the requirements and consequences of this Policy.
- Follow the procedure established by the department head for assuring that an employee who is to be tested for alcohol or other drugs is transported to the designated test site, and that those employees for whom there is Reasonable Suspicion of substance abuse or who have had a breath alcohol test result of 0.02 or greater are transported home.
- Protect the privacy, confidentiality, and dignity of his employees by minimizing the number of employees who learn of suspicions involving a co-worker's possible substance abuse or actions taken against that employee.

5.4 Employees Responsibilities

Every employee and, to the extent applicable, every applicant shall: Abide by this Policy as a condition of employment.

- Comply with all applicable laws regulating the manufacture, distribution, dispensation, use or possession of alcohol, drugs, or prescription medications.
- Assure that his or her ability to perform his or her job duties is not negatively affected due to use of a drug or alcohol when scheduled to report to work or when on call. Should any employee be requested to report to work earlier than his or her normal or previously assigned time, it is the employee's responsibility to advise his or her supervisor of an inability to perform his or her job duties or that he or she has used alcohol or drugs within the last four hours prior to reporting for duty. If the employee had received prior notice that he or she might be called back into work, the employee shall be considered absent without leave if he or she is unable to report to duty and may be subject to other disciplinary action due to inability to report for duty
- In the case of a supervisor who has consumed alcohol or drugs within four hours of receiving an unscheduled notice to report to work or who is otherwise unable to perform his or her job duties due to the influence of alcohol or drugs, the supervisor shall contact a previously designated employee within his or her department to assume the role and responsibilities of the supervisory position until the four-hour time period has passed or, if later, the supervisor is no longer under such influence and can safely return to duty. If no employee within the supervisor's department is available or capable of assuming temporary supervisory responsibilities, the supervisor shall contact his Department Head who shall appoint a temporary supervisor.
- Submit immediately to a drug or alcohol test when requested by his or her supervisor or by the Department Head in accordance with this Policy.
- Notify his or her department head within five (5) days if convicted of a violation of a criminal drug statute such as the manufacture, distribution, dispensation, possession, or use of narcotics, drugs, or for any other controlled substance when such violation occurred while the employee was on duty, as required by the Drug-Free Workplace Act of 1988. Criminal conviction means a finding of guilt, a plea of no contest, or a plea of guilty.

6.0 Drug and Alcohol Tests

6.1 Reasonable Suspicion Testing

- Any employee who while on Town property, while operating a Town vehicle, or while otherwise on duty, demonstrates work performance or behavior that creates a Reasonable Suspicion that the employee is under the influence of alcohol or drugs in

- violation of this Policy shall be subject to alcohol or drug testing.
- A test for alcohol shall be administered within two (2) hours, but no later than eight (8) hours, following the determination of Reasonable Suspicion. If the test is not administered within two (2) hours, the supervisor must document the reason(s) the test was not promptly administered. If the test is not administered within eight (8) hours, the supervisor shall cease attempts to administer the test and shall prepare and maintain a written record stating the reason(s) for not administering the test.
 - A test for drugs shall be administered as soon as possible, but not later than thirty-two (32) hours, following the determination of Reasonable Suspicion. If the test is not administered within thirty-two (32) hours, the supervisor shall cease attempts to administer the test and shall prepare and maintain a written record stating the reason(s) for not administering the test.
 - Once a Reasonable Suspicion is established, the employee shall not be allowed to report to duty or remain on duty until: (i) an alcohol or drug test is administered and the results of such test are negative, or (ii) eight (8) hours have elapsed following a determination of Reasonable Suspicion of alcohol, or (iii) thirty-two (32) hours have elapsed following a determination of Reasonable Suspicion of drugs.
 - A written record shall be made of the grounds for administering a Reasonable Suspicion Test for alcohol or drugs and signed by the supervisor or departmental designee who made the determination of Reasonable Suspicion within twenty-four (24) hours of the observed behavior or before the results of the alcohol or drug test are released, whichever is earlier.
 - Failure of the supervisor to take action when he has reasonable cause to believe an employee is impaired while at work will result in corrective action being taken against the supervisor in accordance with the terms of the **Policy on Corrective Action**.

6.2 Post-Accident Testing

- Any employee whose conduct apparently contributed to an Accident resulting in: (i) death ;(ii) bodily injury requiring hospitalization; or (iii) \$50,000 or more in personal property damage, shall be tested for drugs and alcohol following such Accident.
- Any **Covered Employee** whose conduct may have contributed to an Accident resulting in death; (ii) bodily injury requiring medical treatment away from the scene of the accident; or (iii) \$10,000 or more in property damage shall be tested for drugs and alcohol following such Accident.
- In addition to the other post-accident testing requirements described herein and established pursuant to the Town's independent authority, all **Covered Employees who drive Commercial Vehicles** will be subject to the testing requirements found in 49 CFR § 382.303, as amended. This regulation requires the town to test all surviving drivers for alcohol following an occurrence involving a Commercial Vehicle operating on a public road in commerce if the driver: (1) was performing safety-sensitive functions (as defined by 49 CFR Part 382, as amended) with respect to the vehicle and the accident involved the loss of human life; or (2) receives a citation within 8 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the occurrence involved: (i) bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the occurrence; or (ii) one or more motor vehicles incurring disabling damage as a result of the occurrence, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle. The regulation requires the town to test all surviving drivers for controlled substances following an occurrence involving a Commercial Vehicle operating on a public road in commerce if the driver: (1) was performing safety-sensitive functions (as defined by 49 CFR Part 382, as amended) with respect to the vehicle and the accident involved the loss of human life; or (2) receives a citation within 32 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved: (i) bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or (ii) one or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to

be transported away from the scene by a tow truck or other motor vehicle. The alcohol and controlled substances testing requirements set forth in 49 CFR § 382.303 do not apply to: (1) an occurrence involving only boarding or alighting from a stationary motor vehicle; or (2) an occurrence involving only the loading or unloading of cargo; or (3) an occurrence in the course of the operation of a passenger car or a multipurpose passenger vehicle (as defined in 49 CFR § 571.3, as amended) unless the motor vehicle is transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded in accordance with 49 CFR 177.823, as amended.

- An employee who is subject to post-accident testing under this subsection shall remain readily available for such testing or may be deemed by the Town to have refused to submit to testing. Nothing in this Policy shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver 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.
- Post-accident testing for alcohol will be administered immediately following the accident or as soon thereafter as medically and legally possible, but no later than eight (8) hours after the Accident. If the test is not administered within two (2) hours, the supervisor shall prepare and maintain a written record stating the reason(s) why the test was not administered within two (2) hours. If the test is not administered within eight (8) hours, the supervisor shall cease attempts to administer the test and shall prepare and maintain a written record stating the reason(s) why the test was not promptly administered.
- Post-accident testing for drugs will be administered immediately following the accident or as soon thereafter as medically and legally possible, but no later than thirty-two (32) hours after the accident. If the test is not administered within thirty-two (32) hours, the supervisor shall cease attempts to administer the test and shall prepare and maintain a written record stating the reason(s) why the test was not promptly administered.

6.3 Pre-Placement Testing

- Before any new **Covered Applicant** or existing **Covered Employee** first operates a town-owned vehicle or performs any other Safety-sensitive Function for the town, he or she must submit to drug testing. The employee will not be permitted to drive a town vehicle or perform a Safety-Sensitive Function unless the test is negative. Pre-placement drug testing will be conducted in conjunction with the initial physical of applicants conditionally accepted for full time and part-time positions. All applicants for safety sensitive roster and seasonal positions will be given a pre-placement drug test and a physical examination. See **Appendix on Pre-Placement Physical Examinations** of this policy.
- Before any new or existing **Covered Employee who drives a Commercial Vehicle** first operates a commercial vehicle or performs other related safety-sensitive functions as defined in 49 C.F.R. 382.107, and before any new or existing **Covered Mass Transit Employee** first operates a Revenue Service Vehicle or performs related safety-sensitive functions as defined in 49 C.F.R. 655.4, the employee must submit to both drug and alcohol testing and receive a verified negative result for both. If the pre-placement drug test is canceled, the employee must take another pre-placement drug test with a verified negative result.
- **Covered Applicants** applying for positions as **Covered Employees who drive a Commercial Vehicle** or **Covered Mass Transit Employees** are required (even if ultimately not hired) to provide the Town with signed written releases requesting FTA drug and alcohol records from all previous, DOT-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 such 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 § 655.62.

6.4. Random Testing

- Random testing will be done on a percentage basis in a fair and equal manner. Each time a random selection is made, every employee subject to testing will have an equal chance of being tested. Random tests shall be administered reasonably throughout the calendar year.
- Random test selection will be made by a scientifically valid method by using a computer based random number generator.
- **Covered Employees** are subject to unannounced drug tests throughout the year and may be tested at any time they are on duty. Pursuant to Town policy (and not federal regulations), at least ten percent (10%) of the average number of **Covered Employees** shall be tested each year for drugs.
- **Covered Employees who drive Commercial Vehicles** and **Covered Mass Transit Employees** are subject to unannounced tests for both drugs and alcohol throughout the year and may be tested at any time they are on duty. The minimum percentage rates for random drug and alcohol testing for **Covered Employees who drive Commercial Vehicles** shall be at the current rates determined by FMCSA Administrator pursuant to 49 C.F.R. Part 382, as amended, and the minimum percentage rates for random drug and alcohol testing for **Covered Mass Transit Employees** shall be at the current rates determined by the FTA Administrator pursuant to 49 C.F.R. Part 655, as amended. **Covered Employees who drive Commercial Vehicles** and **Covered Mass Transit Employees** will be included in one random testing pool maintained separately from the testing pool of all other **Covered Employees** who are covered under the sole authority of the town.
- When an employee is selected for random testing, both the employee and the employee's supervisor shall be notified on the day the test is scheduled to occur. The supervisor shall explain to the employee that he/she is under no suspicion of using alcohol or taking drugs and that the employee's name was selected randomly pursuant to this Policy.
- When employees are notified that they have been selected for random testing, they will proceed immediately to the collection site.

6.5. Return to Duty Testing

- **Covered Employees** who have been suspended from work based on a positive test for drugs or alcohol must submit to a drug or alcohol test before returning to work following the suspension period. A negative test result is required before the employee may be authorized to return to duty.
- A positive Return to Duty test shall result in termination.
- **Covered Employees who drive Commercial Vehicles** and **Covered Mass Transit Employees** are subject to return to duty testing following a verified positive drug test result, a confirmed alcohol test with a result indicating an alcohol concentration of 0.04 or greater, a refusal to test (including by adulterating or substituting a urine specimen) or any other violation of the prohibition on the use of alcohol or drugs under a DOT agency regulation. Such employees must have a negative drug test result and/or (depending upon which test is required) an alcohol test with an alcohol concentration of less than 0.02 before they will be allowed to resume any DOT safety-sensitive duties. The test cannot occur until after the TSAP has determined that the employee has successfully complied with prescribed education and/or treatment. Nothing in this Section requires the Town to return an employee to safety-sensitive duties because the employee has met these conditions.

6.6 Follow Up Testing

- **Covered Employees** who have been authorized to return to duty following suspension based on a positive test for drugs or alcohol must submit to a minimum of six (6) unannounced periodic Follow-up Tests within the first twelve (12) months following return to duty.
- Any **Covered Employees** returning to duty following completion of a voluntary drug rehabilitation program must submit to the same Follow-up Tests described above. If the **Covered Employee** is returning to duty following a self-referral or management referral to drug/alcohol rehabilitation (which was not precipitated by a positive test or a refusal to test on a DOT drug or alcohol test), the follow-up tests conducted will be on non-DOT forms but will be modeled off of the DOT procedures.
- A positive Follow-up Test will result in termination.
- Follow-up Testing is separate from and in addition to Random Testing. Employees subject to Follow-up Testing must also remain in the standard random pool and must be tested whenever their names come up for Random Testing, even if this means being tested twice in the same week or month.

7.0 Refusal to Submit to a Test

Any of the following behaviors constitute a test refusal:

- Failure to appear for any test (except pre-employment) within a reasonable time, as determined by the Director or the Director's designee;
- Failure to remain at the testing site until the testing process is complete;
- Failure to provide a urine specimen for any required drug test;
- Failure to permit the observation or monitoring of the specimen collection when required to do so;
- Failure to provide a sufficient amount of urine when directed and there is no adequate medical explanation for the failure;
- Failure to take an additional test when directed to do so by the collector, the Director, or the Director's designee;
- Failure to undergo a medical examination when directed to do so by the MRO, the Director or the Director's designee;
- Failure to cooperate with any part of the testing process (e.g., refusal to empty pockets when directed by the collector, confrontational behavior that disrupts the collection process, failure to wash hands after being directed to do so by the collector).

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Failure to follow the observer's instructions during an observed collection including instructions to raise 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;

- Possession or wearing of a prosthetic or other device that could be used to interfere with the collection process;
- Admission to the collector or MRO that the employee adulterated or substituted the specimen;
- Failure to provide an adequate amount of saliva or breath for any required alcohol test;
- Failure to provide a sufficient breath specimen when directed and there is no adequate medical explanation for the failure;
- Failure to sign the certification at Step 2 of the Alcohol Testing Form (ATF) if required by 49 CFR Part 40, as amended; and
- Failure to remain readily available for post-accident testing if subject to post-accident testing.

In addition, if the MRO reports that an employee has a verified adulterated or substituted test result, the employee will be deemed to have refused the test. Nothing in this Policy shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver 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.

Refusal by an employee to take a reasonable suspension, random, post-accident or pre-placement drug or alcohol screen will result in disciplinary termination. The employee will not be allowed to resign after refusing a drug or alcohol test nor will he be allowed to self-refer to an Employee Assistance Program to avoid dismissal; the official designation of the termination will be "disciplinary termination." The employee will be allowed to enter an explanation for his refusal into his personnel file.

8.0 Testing Procedures

All alcohol and drug tests performed pursuant to this Policy shall be conducted by the Town's Corporate Health Partner or other clinical facility designated by the Town, which facility shall be responsible for complying with all applicable state and federal regulations governing alcohol and drug testing procedures and methodologies.

9.0 Reporting of Results

MEDAC or other clinic facility designated by the Town to perform employee alcohol and drug testing (the "laboratory"), shall report drug test results directly to the Town's Medical Review Officer (MRO) within five (5) working days. The report shall indicate the drugs/metabolites tested for, whether the results are positive or negative, and the drug testing laboratory identification number. The laboratory shall report alcohol test results to the Human Resource Director or his or her designee immediately.

10.0 Review of Drug Results by MRO

THE MRO WILL REVIEW AND INTERPRET POSITIVE RESULTS OBTAINED FROM THE LABORATORY. THE MRO, THROUGH A VERIFICATION PROCESS, WILL ASSESS AND DETERMINE WHETHER ALTERNATE MEDICAL EXPLANATIONS COULD ACCOUNT FOR THE POSITIVE TEST RESULTS. THE MRO MAY CONDUCT MEDICAL INTERVIEWS OF THE TESTED INDIVIDUAL. ADDITIONALLY, THE MRO WILL EXAMINE ALL MEDICAL RECORDS AND DATA MADE AVAILABLE BY THE TESTED INDIVIDUAL, SUCH AS EVIDENCE OF PRESCRIBED MEDICATIONS.

- The MRO will review the findings of a drug test with the employee or **Covered Applicant** before a final determination is made that the employee or **Covered Applicant** did not pass the test. The purpose of this review is to ensure that the findings of a positive test are not based on factors other than the use of the drug for which the positive result is found. After the final decision is made, the MRO will notify the Town as prescribed below.
- If during the course of an interview with an individual who has tested positive the MRO learns of a medical condition which could, in the MRO's reasonable medical judgment, pose a risk to safety, the MRO may report that information to the Human Resource Director or his designee.
- The MRO will notify each employee or **Covered Applicant** who has a confirmed positive test that the employee or **Covered Applicant** has 72 hours in which to request a test of the split specimen. The employee or **Covered Applicant** shall have the right to retest a confirmed positive sample at the same or another approved laboratory. The employee or **Covered Applicant** must request release of the sample in writing specifying to which approved laboratory the sample is to be sent. If the employee or **Covered Applicant** makes such a request, the MRO will direct, in writing, the laboratory to provide the split specimen to a certified laboratory, as specified by the employee or **Covered Applicant**, for analysis. If the analysis of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing or un-testable, the MRO will cancel the test and report cancellation and the reasons for it to the DOT (if applicable), the Town, and the employee or **Covered Applicant**. A request for testing of the split sample and associated costs are the responsibility of the tested individual.
- If the MRO, after making and documenting all reasonable efforts, is unable to contact the tested person, the MRO will contact the Director to arrange for the employee or Covered Applicant to contact the MRO prior to going on duty. If, within five (5) days after a documented contact by the Director instructing the employee or **Covered Applicant** to contact the MRO, the employee or **Covered Applicant** has not done so, the MRO will verify the test positive and report it to the Town.
- Notwithstanding any other provision stated herein, the MRO shall comply with all applicable state and federal laws in effect at the time of the testing.

11.0 Compliance with the Law

- The Town will maintain alcohol and drug test results in a secure and confidential manner, so that disclosure of information to unauthorized persons does not occur. Employee or **Covered Applicant** information shall only be released as legally required or expressly authorized.

- Searches and seizures are to be conducted in a legal manner. The Town reserves the right to conduct searches or inspections of property assigned to an employee whenever a department head or his or her designee determines that the search is reasonable under all the circumstances. Failure to consent to, or cooperate with, such inspections will be grounds for disciplinary action up to and including discharge.
- The Town will notify the North Carolina Division of Motor Vehicles within five (5) business days following receipt of a positive drug or alcohol test or a refusal to submit to a required test for all employees or **Covered Applicants** who drive commercial vehicles or work for agencies that receive federal transit funds, as required by N.C.G.S. § 20-37.19(c). Such notification shall include the employee's name, driver's license number, social security number, and test results or documentation of employee's refusal to take the test.
- The Drug Free Workplace Act of 1988 requires all town employees to notify the town within five calendar days after any criminal conviction for the manufacture, distribution, dispensation, possession, or use of narcotics, drugs, or any other controlled substance at the workplace. Criminal conviction means a finding of guilt, a plea of no contest, or a plea of guilty. The town shall then be required to notify all federal contracting agencies and grantors of such conviction within ten days of receiving notice of the conviction.
- This policy is intended to comply will all applicable federal regulations governing workplace anti-drug and alcohol programs in the transportation industry. This specifically includes, without limitation, 49 CFR Parts 382 and 655, as amended (published by the FTA and the FMCSA of the DOT), which mandate urine drug testing and alcohol breath testing for Safety-Sensitive positions and prohibit performance of Safety-sensitive functions when there is a positive test; and 49 CFR Part 40, as amended (published by DOT), which sets standards for the collection and testing of urine and breath specimens.

12.0 Contact

No policy can address all the possible combinations of circumstances that will be encountered on the job. This policy provides a set of principles by which supervisors are expected to make decisions. If circumstances suggest that some decision other than those directed by this policy should be made, supervisors must contact the Human Resources Department prior to making a decision.

Any inquiries regarding this Policy should be directed to the Town of Carolina Beach Director of Human Resources, who is the Town Official designated to answer questions about this Policy. The Director is located at 1121 N. Lake Park Blvd., Carolina Beach, N.C. The phone number is (910) 458-9530.

13.0 APPENDIX, APPENDICES

- Pre-Placement Physical Examination Components