



# TOWN OF MILLIS

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## ALCOHOL AND DRUG USE POLICY

### **A. Purpose and Scope**

The purpose of this policy is to outline the responsibilities of employees, supervisors, and department heads with regard to drug and alcohol use in the workplace, the testing of employees for drug and alcohol use, and the testing of employees in safety-sensitive positions for drug and alcohol use in accordance with U.S. Department of Transportation regulations, issued under the Omnibus Transportation Employee Testing Act of 1991, and in accordance with the Drug-free Workplace Act of 1988.

### **B. Definitions**

Words or phrases used in this policy are defined in 49 CFR 382, 107 or, if not defined in that Section, 49 CFR 40.3, 40.73, 386.2 and 390.5.

For the purposes of this policy, safety-sensitive shall refer to all employees required by the United States to obtain and retain a Commercial Driver's License (CDL).

### **C. General Policy Regarding Drugs and Alcohol in the Workplace**

The Town firmly believes that the use of drugs and misuse of legal drugs, including alcohol, is a source of danger in the workplace and a threat to the Town's goal of maintaining a productive and safe work environment.

1. In accordance with the Federal Drug Free Workplace Act, the use, sale or possession of narcotics, illegal drugs or controlled substances while on the job or on Town property is prohibited and an offense warranting disciplinary action up to and including termination.
2. Employees who are under the influence of alcohol, either on the job or when reporting to work, or who possess or consume alcohol during work hours, have the potential for interfering with their own as well as their coworkers' safe and efficient job performance. Such conditions will be the basis for disciplinary action up to and including termination of employment.
3. Employees are expected to follow any directions of their health care provider concerning prescription medications and must immediately notify their supervisor if any prescription drug is likely to have an impact on job performance. In addition, notification must be given at the time of any testing or screening as to any drugs or medicine being taken.

4. Any employee, while on Town property or during the employee's work shift, including without limitation all breaks and meal periods, who consumes, sells or uses, or is found to have in his or her personal possession, in his or her locker or desk or other such repository, alcohol or drugs, which are not medically authorized, or is found to have used or to be using such alcohol or drugs, may be placed on administrative leave or suspended immediately pending further investigation. If use, sale, or possession is substantiated, disciplinary action, up to and including termination will be imposed.
5. The Town is committed to the treatment and rehabilitation of employees with alcohol and controlled substance misuse problems and encourages employees to come forward voluntarily and seek assistance for those problems prior to and after implementation of the testing program.
6. If at any time an employee volunteers to enter a chemical dependency program, he/she will enter without fear of disciplinary action being taken against him/her as a direct result of seeking treatment, where such a program is designed to provide care and treatment to employees who need rehabilitation. Details concerning the treatment any employee receives at this program shall remain confidential and shall not be released to the public.

#### **D. Policy Regarding Drug and Alcohol Testing**

1. CDL Holders
  - a. It is the policy of the Town to comply fully with the regulations mandating pre-employment, random, reasonable suspicion and post-accident drug and alcohol testing issued by the U.S. Department of Transportation ("DOT"). This policy contains the requirements of the regulations, except where indicated that a particular provision is based on the authority of the Town.
  - b. Under the regulations, performance of DOT safety-sensitive functions is prohibited by employees having a breath alcohol concentration of 0.04 percent or greater as indicated by an alcohol breath test; by employees using alcohol or within four hours after using alcohol; and by employees in the possession of any medication containing alcohol unless the package seal is unbroken. In addition, the Town prohibits the performance of any safety-sensitive function by an employee with a breath alcohol concentration of .02 percent or greater.
  - c. Use of drugs by safety-sensitive drivers is prohibited.
  - d. A driver is performing a safety-sensitive function at the following times:
    - 1) All time on Town property, public property, or other property waiting to be dispatched or drive.
    - 2) All time inspecting, servicing or conditioning any commercial motor vehicle at any time.
    - 3) All driving time.
    - 4) All time other than driving time in or upon any commercial motor vehicle.
    - 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 receipts for shipments loaded or unloaded.
    - 6) All time spent performing driver requirements relating to accidents; and
    - 7) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

## 2. Non-CDL Holders

It is the policy of the Town to test applicants for designated positions that do not require a Commercial Driver's License and to test employees where probable cause exists and post-accident for such testing for drug and alcohol use.

### E. Procedures

#### 1. Types of Tests for CDL Applicants and Employees

To the extent practicable, all tests will be conducted during employees' normally scheduled work hours. The following tests are required:

- a. Pre-employment (Pre-use): All applicants for employment in positions requiring a Commercial Driver's License (pre-employment), or candidates for transfer or promotion to such a position (pre-use), are subject to screening for use of controlled substances.
- b. Post-Accident: Conducted after accidents on drivers in Town vehicles whose performance could have contributed to the accident, as determined by a citation for a moving traffic violation, and for all fatal accidents even if the driver is not cited for a moving traffic violation. An accident is defined as an incident involving a commercial motor vehicle in which there is either a fatality, an injury treated away from the scene, or a vehicle being required to be towed from the scene. Alcohol tests should be conducted within 2 hours, but in no case more than 8 hours after the accident. Employees must refrain from all alcohol use until the test is complete. Post-accident drug tests must be conducted within 32 hours.
- c. Reasonable Suspicion: Conducted when a trained supervisor or manager observes behavior or appearance that is characteristic of alcohol or drug use. If a driver's behavior or appearance suggests alcohol or drug use, a test must be conducted. If a test cannot be administered, the driver must be removed from performing safety-sensitive duties for at least 24 hours and may be placed on administrative leave. Testing for alcohol abuse must be based upon suspicion which arises just before, during or just after the time when the employee is performing safety-sensitive duties. Testing for substance abuse may occur at any time upon suspicion.
- d. Random: Conducted on a random, unannounced basis just before, during or after performance of safety-sensitive functions for alcohol or at any time for drugs for CDL drivers. Each year, the number of random alcohol tests conducted by the Town must equal at least 10% of all the safety-sensitive drivers. Random drug tests conducted by the Town must equal at least 50% of all safety-sensitive drivers.
- e. Return to Duty and Follow-up: Conducted when an individual who has violated the alcohol or drug standards returns to performing safety-sensitive duties. Follow-up tests are unannounced and at least six (6) tests must be conducted in the first twelve (12) months after a driver returns to duty. Follow-up testing may be extended for up to sixty (60) months following the return to duty.

#### 2. Types of Tests for Non-CDL Applicants and Employees

- a. Pre-employment: With their consent, all applicants for employment in designated positions that do not require a Commercial Driver's License (pre-employment) are subject to screening for use of controlled substances.
- b. Probable Cause: Conducted when a trained supervisor or manager observes behavior or appearance that gives probable cause of alcohol or drug use. If facts and circumstances warrant a reasonable belief that a non-CDL employee more probably than not has used alcohol or drugs, a test must be conducted.

### 3. Conducting Tests

Tests will be conducted in accordance with DOT and U.S. Department of Health and Human Services rules and procedures. These procedures are outlined below.

#### a. Alcohol

DOT rules require breath testing using evidential breath testing (EBT) devices. Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a "negative" test. If the alcohol concentration is 0.02 or greater, a second, confirmation test must be conducted.

#### b. Drugs

1. Drug testing is conducted by analyzing a driver's urine specimen and must be conducted through a U.S. Department of Health and Human Services certified facility and in accordance with U.S. Department of Health and Human Services procedures. Specimen collection procedures and chain of custody requirements will be followed to ensure that the specimen's security, proper identification, and integrity are not compromised.
2. DOT rules require a split specimen procedure. Each urine specimen is subdivided into two bottles labeled as primary and split. Both bottles are sent to the laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen remains sealed at the laboratory. If the analysis of the primary specimen confirms the presence of illegal controlled substances, the individual tested has 72 hours to request that the split specimen be sent to another DHHS certified laboratory for analysis.
3. All urine specimens are analyzed for the following drugs:
  - Marijuana (THC metabolite)
  - Cocaine
  - Amphetamines
  - Opiates (including heroin)
  - Phencyclidine (PCP)
4. Testing is conducted using a two-stage process. First, a screening test is performed. If the test is positive for one or more of the drugs, a confirmation test is performed for each

identified drug. Sophisticated testing requirements ensure that over-the-counter medications or preparations are not reported as positive results.

5. All drug tests are reviewed and interpreted by a physician designated as a Medical Review Officer (MRO) before they are reported to the Town. If the laboratory reports a positive result to the MRO, the MRO will contact the individual who was tested and conduct an interview to determine if there is an alternative medical explanation for the drugs found in the urine specimen. For all the drugs listed above, except PCP, there are some limited, legitimate medical uses that may explain a positive test result. If the MRO determines that the drug use is legitimate, the test will be reported to the Town as a negative result.

#### **F. Refusal to Submit to an Alcohol or Drug Test and the Consequences**

Refusal to submit to an alcohol or controlled substances test as authorized by this policy means that an applicant or employee (1) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part, (2) fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this policy, or (3) engages in conduct that clearly obstructs the testing process.

Pursuant to the Town's authority, employees who refuse to submit to a test will be subject to discipline, up to and including termination. Refusal to submit to a test will be treated as a failed test for purposes of this policy.

#### **G. Consequences of Alcohol/Drug Misuse**

1. Safety-sensitive employees who have any alcohol concentration (defined as 0.02 or greater) who tested just before, during or just after performing safety-sensitive functions must be removed from performing such duties for 24 hours and may be placed on administrative leave by the Town as deemed appropriate.
2. Pursuant to the Town's authority, disciplinary action may be imposed upon an employee whose alcohol test reveals any alcohol concentration (between 0.02 and 0.04).
3. Drivers who engage in prohibited alcohol or drug conduct (that is, who test positive for alcohol use greater than 0.04 or drug use) must be immediately removed from safety-sensitive functions and may be placed on administrative leave by the Town.
4. Drivers who engage in prohibited alcohol or drug conduct who wish to continue employment with the Town must be evaluated by a substance abuse professional and comply with any treatment recommendations to assist them with an alcohol or drug problem. The payment for any recommended treatment will be strictly at the expense of the employee (or his/her health insurance program, if applicable). Employees will be placed on non-occupational sick leave or leave without pay status during the treatment period, whichever is appropriate.

5. Drivers who have been evaluated by a substance abuse professional, who comply with any recommended treatment, who have taken and passed a return to duty alcohol or drug test, and who are then subject to unannounced follow-up tests at the employees' expense, may return to work.
6. Pursuant to the Town's authority, drivers who have returned to work under these conditions and who subsequently test positive for alcohol or drugs in accordance with this policy during the next five years may be terminated.
7. Once an employee successfully completes rehabilitation, he/she shall be returned to his/her regular duty assignment or an equivalent position. Employee assignments during treatment shall be based on each individual's circumstances. As a condition of employment, the employee must comply with prescribed follow-up care.
8. Employees in non-safety sensitive positions who fail alcohol or drug tests under this policy may be placed on administrative leave and shall be subject to discipline, up to and including termination.

#### **H. Information and Training**

1. All current and new employees will receive written information about the testing requirements and how and where they may receive assistance for alcohol or drug misuse. All employees must receive a copy of this policy and sign the Confirmation of Receipt (Attachment 1).
2. All supervisors and managers must attend at least two hours of training on alcohol and drug use symptoms and indicators used in making determinations for alcohol or drug testing. Supervisors and managers will be instructed on the detection of abuse problems and the enforcement of the testing policy. Periodic, on-going training will also occur after implementation of the policy.
3. This policy will be posted on employee bulletin boards and will be available to all employees.
4. Educational information will be made available periodically which will focus on the potentially dangerous effects of drug and alcohol use and abuse, the procedures associated with pre- and post-employment drug screening and testing, the effects on job performance measured in loss of productivity, and the potential safety hazards presented to the individual employee, other employees and the public.
5. All recruitment advertising may include the statement "Drug/alcohol screening is a condition of employment" at the bottom of the advertisement/posting with the EEO statement.
6. All final candidates for employment will be given a copy of this policy and be given the opportunity to read the policy in its entirety.

#### **I. Record Keeping**

1. The Town shall keep detailed records of its alcohol and drug prevention program.
2. Alcohol and drug testing records are confidential. Test results and other confidential information may only be released to the Town, the substance abuse professional, the MRO and any arbitrator of a

grievance. Any other release of this information may only be made with the employee's consent or in response to a court order or subpoena.

**J. Pre-employment References**

1. The Town must obtain and review the following information from each employer that the prospective driver worked for, in a safety-sensitive position, during the previous two years: information about a test in which the employee's blood alcohol was 0.04 or greater; information about a positive drug test; and information about any refusal to participate in the alcohol and drug testing program.
2. The prospective employee must provide the former employer with a written release allowing the release of this information or he/she will not be hired.
3. If the previous employer indicates that positive result was received, or that the employee refused to participate when selected for an alcohol or drug test, the applicant may not be appointed unless he/she has already consulted with a substance abuse professional, already received recommended treatment, and subsequently tested negative in a return to duty test for the former employer.
4. The Town must provide the same information to subsequent employers of current Town employees when provided with a written release by the employee.

(Located on page 44 of the Town of Millis Personnel Plan)