

## **DRUG AND ALCOHOL TESTING POLICY**

### **I. STATEMENT OF POLICY**

The Town of South Bristol recognizes that the use and/or abuse of alcohol or controlled substances by Town employees presents a serious threat to the safety and health of employees and the general public. It is the policy of the Town that its employees will be free of drugs and alcohol. In order to further our goal of obtaining a drug-free and alcohol-free workplace, and to ensure compliance with federal and state laws the Town has implemented a drug and alcohol testing program which is designed to help reduce and avoid traffic accidents and injuries to our employees and the public, to discourage substance and alcohol abuse, and to reduce absenteeism, accidents, health care costs, and other drug and alcohol-related problems.

### **II. COVERAGE**

This policy applies to all Town employees and applicants for employment or promotion with the Town.

In accordance with federal regulations, certain provisions of this policy apply only to operators of commercial motor vehicles (the "Operators").

### **III. DEFINITIONS**

"Controlled Substance" means marijuana metabolites, cocaine metabolites, amphetamines, opiate metabolites, and phencyclidines (PCP).

"Job Applicant" means any individual applying for a position with the Town as an employee, supervisor or manager.

"Illegal Drugs" means any controlled substance or drug, the sale, possession or consumption of which is illegal. The term includes prescription drugs obtained illegally, and prescription drugs not being used in the manner, combination or quantity prescribed.

A "legally prescribed drug" is one for which the employee has a prescription or other written approval from a physician for its use. The prescription must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization.

"Reasonable suspicion" means a belief, based on specific, contemporaneous, or personal observations concerning the appearance, behavior, speech, or body odors of an employee, that the employee has violated this policy. Reasonable suspicion may also arise from receipt of information about an employee's impaired behavior from alcohol or drug use from a reliable source that has been substantiated by a trained supervisor.

"Safety sensitive position" means a position involving performance of tasks, assignments, or responsibilities that implicate safety concerns for Town employees and the general public. As an example, Mechanical Equipment Operators and Highway Superintendent hold safety-sensitive positions.

For Operators, “safety sensitive function” includes any period that the Operator is actually performing, ready to perform, or immediately available to perform a safety-sensitive function. Safety-sensitive function means all time, from the time an Operator begins to work or is required to be in readiness to work, until the time the operator is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

1. All time at a Town facility or other property, or on any public property, waiting to be dispatched, unless the Operator has been relieved from duty by the Town;
2. All time inspecting equipment 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;
5. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle;
6. 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
7. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

#### **IV. PROHIBITED CONDUCT**

Town employees are prohibited from engaging in the following conduct:

1. Using, possessing, dispensing, distributing, or receiving alcohol, intoxicants, or illegal drugs on Town premises, or while engaged in Town business;
2. Reporting to work under the influence or with any measurable amount of alcohol, intoxicants, illegal drugs, or other controlled substances in their system;
3. Reporting to work under the influence of a legally prescribed drug, unless the employee’s physician determines, upon the employee’s full disclosure of his or her duties for the Town, that use of the prescription drug will not adversely affect the employee’s ability to perform his or her duties;
4. Consuming any amount of alcohol while on duty or within four (4) hours of reporting for duty;
5. Refusing to undergo or cooperate in any alcohol or drug testing required by this policy.

6. Deliberately misusing this policy in regard to subordinates; or
7. Providing false information in connection with a test or falsifying test results through tampering, contamination, adulteration, or substitution.

In addition to the foregoing restrictions, Operators:

1. Will not report to work or remain on duty requiring performance of safety-sensitive functions while having any measurable amount of alcohol in their system;
2. Will not use alcohol while performing safety-sensitive functions;
3. Will not perform safety-sensitive functions within four hours after using alcohol;
4. If required to take a post-accident alcohol test, will not use alcohol for 8 hours after the accident, or until he or she takes a post-accident alcohol test, whichever occurs first;
5. Will not consume alcohol after a non-fatal accident unless the employee's involvement can be completely discounted as a contributing factor to the accident, the employee has been tested, or 8 hours have elapsed from the actual time of the accident; and
6. Will not refuse to submit to a post-accident alcohol test, a random alcohol test, a reasonable suspicion alcohol test, a return-to-duty alcohol test, or a follow-up alcohol test.

Any employee who observes or has personal knowledge of any violation of the drug-free workplace policy is encouraged to promptly report the incident to Town management.

Any employee who violates any of the rules set forth above is subject to discipline, up to and including discharge.

## **V. INSPECTIONS**

In order to implement this policy, the Town reserves the right to conduct unannounced random inspections for drugs or alcohol of Town facilities and property (e.g., Town vehicles, desks, file cabinets, employee lockers, etc.). Employees are expected to cooperate in the conducting of such inspections. Inspections of Town facilities and property can be conducted at any time and do not have to be based on reasonable suspicion.

Inspections of employees and their personal property (i.e., vehicles, clothing, packages, purses, briefcases, lunch boxes, or other containers brought onto Town premises) may be conducted when there is reasonable suspicion that the employee or employees are in violation of this Policy.

## **VI. OFF-DUTY INVOLVEMENT WITH DRUGS OR ALCOHOL**

Employees are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession or use of drugs and/or alcohol while off-duty where such illegal activity represents a substantial risk to the Town's interests or the health, safety, or welfare of its employees or the public.

Employees must notify the Town of any criminal drug statute conviction for a violating arising within the workplace within five (5) days of such conviction. Within ten (10) days of such notice, or other actual notice, the Town will advise any federal contracting agency of such conviction.

## **VII. REQUIRED TESTS**

1. ***Pre-employment Testing*** – All job applicants shall be required to undergo a drug test after a conditional offer of employment with the Town has been made.

An Operator shall also be required, prior to the first time that he or she performs a safety-sensitive function (i.e. new position, job transfer, promotion, new duties, etc.), to undergo testing for controlled substances. A positive test will result in a disqualification from further consideration for the current vacancy or position on eligibility list.

Any job applicant or employee who refuses to undergo testing required by this section will be disqualified from further consideration for the current vacancy or eligibility list.

2. ***Reasonable Suspicion Testing*** – Operators and Town employees holding safety-sensitive positions will be subject to Reasonable Suspicion testing, as defined in this Section.
  - (a) In a situation where an employee is either acting in an impaired manner, or a supervisor has reasonable suspicion to believe the employee is using or is under the influence of alcohol or drugs, the supervisor may order the employee to undergo a drug and/or alcohol test. The supervisor may, but need not, seek a corroborating opinion from another supervisor prior to immediately removing the employee from the job and sending the employee for drug and alcohol testing.
  - (b) Once the employee has been removed from the job, the supervisor will contact the Town Supervisor. If contact cannot be made at that time, the supervisor will proceed through the next step of this procedure and make contact with the Town Supervisor as soon thereafter as possible.
  - (c) A supervisor will then transport the employee to the collection site for drug and/or alcohol testing immediately, but no later than eight (8) hours after having observed the behavior. If the drug or alcohol test is conducted more than two (2) hours, but less than eight (8) hours, after the

supervisor determines there is reasonable suspicion to believe the employee is under the influence of alcohol or controlled substances, the supervisor will complete a report explaining the reason for the delay in conducting the drug or alcohol test. The supervisor will wait at the clinic with the employee until the testing has been completed.

- (d) Once the alcohol testing has been completed, and if a positive confirmatory test result is received (0.04 percent or above), the employee will not be permitted to drive his/her own vehicle home at that time. Alternative transportation arrangements will be mutually made in order to leave the collection site or employment site.
- (e) The employee will be advised not to report for work because he or she will be placed on suspension without pay. If a blood alcohol or urine test has been administered, the Town will contact the employee once the test results are known (this normally takes 24-48 hours) and a decision has been made as to the employee's status.
- (f) The results of the drug or alcohol testing will be sent directly to the Town Supervisor. When the results are obtained, the employee's supervisor and department head will meet with the Town Supervisor to determine the appropriate course of action to be taken. This is a confidential process. Test results will be held strictly confidential and will not to be discussed or shared with anyone who does not need to know. Likewise, a supervisor cannot discuss the suspected reason for a referral or discipline action with anyone who does not need to know.
- (g) Once the test has been completed and the employee has been sent home, the employee's supervisor must submit a written report to the Town Supervisor outlining, in detail, the event and the behavior observed that led the supervisor to believe the employee was under the influence of alcohol and/or drugs. This report must be done within 24 hours of the testing.

***Random Testing*** - Operators and Town employees holding safety-sensitive positions will be subject to random testing for drug or alcohol use

This test is used in order to eliminate risks associated with illegal or unauthorized drug and alcohol use. Random alcohol and drug testing will be conducted just before, during, or just after an employee's performance of safety-sensitive duties. The employee will be randomly selected for testing from a "pool" of employees subject to testing. The testing dates and times are unannounced and will occur with unpredictable frequency throughout the year. The rate of random tests will conform with Regulations' minimum annual percentage rates. The Town reserves the right to either increase or decrease the minimum annual percentage rate for random alcohol and drug testing.

The selection of employees for random testing shall be administered by Healthworks, using a scientifically valid method. This method will be a computer software-based random selection program that is matched with employee social security numbers. A monthly list of confidential numbers will be generated and forwarded to the Town Supervisor who will then contact the employee's supervisor for testing arrangements. Under this selection process, each employee will have an equal chance of being tested each time selections are made. As a result, some employees may be tested more than once each year, while other employees may not be tested at all.

In the event an employee tests positive for either alcohol or controlled substances, the employee will be subject to disciplinary action, up to and including discharge.

***Post-Accident Testing*** - Operators and Town employees holding safety-sensitive positions will be subject to Post-Accident testing, as defined in this Section. For purposes of this Section, "accident" means: (1) any incident involving the loss of human life, even if the employee involved is not at fault; (2) any incident where the employee receives a citation under state or local law for a moving traffic violation arising from an incident; and (3) any incident involving the operation, use, or misuse of a commercial motor vehicle.

As soon as practicable following an accident involving a commercial motor vehicle, the Town shall test the Operator and safety-sensitive employees who may have contributed to that accident for alcohol and controlled substances.

The alcohol breath test must be administered within two (2) hours following the accident and the drug test must be administered within 32 hours of the accident.

An employee who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the Town to have refused to submit to testing.

3. ***Return-to-Duty/Follow-Up Testing*** – Only Operators will be subject to Return-to-Duty/Follow-Up Testing.

This test is used to maintain abstinence and prevent relapse by Operators during and after drug treatment. The Town will ensure that before an Operator returns to duty requiring the performance of a safety-sensitive function, but after engaging in conduct prohibited in this policy, the Operator shall undergo a return-to-duty alcohol and/or controlled substance test with a result indicating an alcohol concentration of less than 0.02 percent and a verified negative result for controlled substance use. In any event, an Operator will not be allowed to return to duty without first having been evaluated by the Substance Abuse Professional (SAP) provider in order to determine the Operator's fitness-for-duty.

Following a determination that an Operator is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, the Town will ensure that the Operator is subject to announced follow-up alcohol and/or controlled substances testing in consultation with a substance abuse

professional. Consequently, the Operator will be given at least six (6) random tests during the 12 month period after returning to duty with the possibility of follow-up testing for up to 60 months after the Operator returns to duty.

4. ***Voluntary Testing*** - This testing provides an opportunity for all employees (management, supervisory, and non-supervisory) not part of the random pool to demonstrate a commitment to the goal of a drug and alcohol free workplace.

### **VIII. TEST PROCEDURES**

The Town has entered into an alcohol and drug testing agreement with HealthWorks, 1160 Corporate Drive, Farmington is the facility currently used for medical services. Testing may be done on both urine and breath. All drug and alcohol testing will be conducted in accordance with the law.

HealthWorks will handle taking the sample (in standard collection kits) from the hours of 8:00 a.m. until 5:00 p.m. (Monday through Friday) and arrangements for off-hour alternative testing site will be made by calling 1-800-836-2337 to handle taking the sample during all other, non-regular, business hours and days. The providers will be responsible for seeing that the samples are sent to laboratories approved for screening and for assisting in the interpretation of the results. Specimen collection is not to be done anywhere but at Town facilities, at HealthWorks or an alternative site determined by HealthWorks, unless specifically authorized by the Town Supervisor.

#### ***A. ALCOHOL TESTING***

Alcohol testing will be conducted using an approved evidential breath testing (EBT) device. A certified breath alcohol technician (BAT) will administer an initial screening test. If the employee tests at 0.02 percent or above for alcohol, then the BAT will conduct a confirmation test. The Town will take action based only upon the positive results of the confirmation test (0.02 percent or greater).

##### ***1. ALCOHOL TESTING PROCEDURES***

Procedures for conducting alcohol tests are as follows:

- a. When the employee enters the collection site, the BAT will require him or her to provide positive identification (i.e. photo ID or employer identification).
- b. The BAT will explain the test procedure.
- c. Employees will be required to complete and sign various forms used to document the testing process. Refusal to sign the test form(s) will be regarded as a refusal to take the test.
- d. Employees will be instructed to blow forcefully into the mouthpiece until the EBT indicates that an adequate amount of breath has been obtained.

- e. If an employee tests positive during the screening test, s/he shall not eat, drink, put any object or substance in his or her mouth and, to the extent possible, not belch during the 30 minute waiting period before the confirmation test is conducted.
- f. Refusal by an employee to complete and sign the test form, to provide an adequate amount of breath without a valid medical explanation, or otherwise failure to cooperate with the testing process in a way that prevents the completion of the test will be considered a disciplinable offense, up to and including termination.

In the event of conflicting results between the initial test and the confirmation test, the confirmation test results will determine the outcome of the test.

## **2. *RESULTS OF POSITIVE ALCOHOL TEST***

Any employee who tests positive for alcohol concentrations of 0.02 or higher is subject to discipline, up to and including discharge.

In the event that an employee is required to comply with breath testing as a result of a law enforcement investigation, the employee must submit to the examination. The test will be considered enforceable for purposes of this policy.

If a confirmation alcohol test measures 0.04 or greater, the Town will:

- a. Remove the employee from his or her position;
- b. Before returning the employee to employment, the Town will:
  - (1) Refer the employee to the Substance Abuse Professional (SAP) for assessment of an alcohol problem and a determination of whether participation in a treatment program is necessary;
  - (2) Ensure that, to the extent applicable, a substance abuse professional has determined that the employee successfully completed any required rehabilitation; and
  - (3) Re-test the employee to verify that his or her alcohol concentration is below 0.02.
- c. The employee will subsequently be given at least six (6) random tests during the next year with the possibility of follow-up testing for up to 60 months.

If the confirmation test level is between 0.02 and 0.039 percent, the employee will be removed from any assignment that involves performance of safety sensitive tasks and either be re-tested or removed from his/her position for a minimum of 24 hours.

## **B. *TESTING FOR CONTROLLED SUBSTANCES***

For purposes of this policy, the Town will utilize, at a minimum, a 5-panel drug screen consisting of the following drugs:

- (a) Tetrahydrocannabinol (Marijuana drug)
- (b) Cocaine
- (c) Amphetamines
- (d) Opiates (including heroin)
- (e) Phencyclidine (PCP)

In instances where there is reason to believe an employee is abusing a substance other than the five drugs listed above, the Town reserves the right to test for additional drugs using standard laboratory testing protocols.

Drug testing is conducted by analyzing an employee's urine specimen (through a Department of Health and Human Services certified testing lab). This procedure will include use of a split specimen testing procedure. Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Both bottles will be sent to a certified lab. Only the primary specimen bottle is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the lab. If the analysis of the primary specimen confirms the presence of illegal, controlled substances, the employee has 72 hours to request the split specimen be re-tested at the same lab or be sent to another lab under contract with the collection facility at the Town's expense; or the employee may elect to have the re-test done at another certified lab at his own expense. An employee who fails to notify the Medical Review Officer (MRO) within 72 hours (of receiving the results of the positive test) of his/her desire to have the split specimen tested shall be deemed to have waived his/her right to seek testing of the split specimen.

#### ***1. CONTROLLED SUBSTANCE TESTING PROCEDURES***

Procedures for conducting tests for controlled substances are as follows:

- a. When the employee enters the collection site, the employee will be required to provide positive identification (i.e. photo ID or employer identification).
- b. The employee will be instructed to provide at least 45 ml of urine under the split sample method of collection. This will be done in a specifically designated "donor" bathroom.
- c. The urine sample shall be divided into a primary specimen (30 ml) and a split specimen (15 ml).
- d. If the test result of the primary specimen is positive, the employee may request within 72 hours, that the MRO direct that the split specimen be tested in the same or a different DHHS-certified laboratory for presence of the drug(s) for which a positive result was obtained in the test of the primary specimen.

- e. Employees who perform any safety-sensitive tasks will be removed from assignments requiring performance of such tasks pending the result of the split specimen test.
- f. If the result of the test of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the test.
- g. Employees will be required to complete and sign various forms used to document the testing and chain of custody process. Refusal to sign the test form(s) will be regarded as a refusal to take the test.
- h. Refusal by an employee to complete and sign the test and chain of custody forms, to provide an adequate amount of urine (to be decided on a case-by-case basis), or otherwise failure to cooperate with the testing process in a way that prevents the completion of the test will be considered grounds for disciplinary action, up to and including discharge.

In the event of conflicting results between the initial test and the confirmation test, the confirmation test results will determine the outcome of the test.

## ***2. RESULTS OF POSITIVE TEST***

Employees who tests positive for controlled substances may be subject to discipline, up to and including discharge. Upon the confirmation of a positive drug test result, the Town will:

- a. Remove the employee from any safety-sensitive position and
- b. Refer the employee to the Employee Assistance Program (“EAP”) for assessment and subsequent compliance with recommended rehabilitation after a determination of a drug problem has been made.

## ***IX. PRESCRIPTION DRUGS***

Before performing work-related duties, employees must notify their supervisor if they are taking any legally prescribed drugs, as defined in this policy, any therapeutic drug, or any non-prescription drug which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected by the use of that medication. The supervisor will notify the Town Supervisor, in writing, of any notice provided by an employee under this Section. Employees are responsible for informing their physician about the job they perform, so that the physician may assess if a prescribed substance could interfere with the safe and effective performance of the employee’s duties.

## ***X. CONFIDENTIALITY OF RECORDS***

The Town respects the confidentiality and privacy rights of all of its employees. Accordingly, the results of any test administered under this Policy and the identity of any employee participating in the EAP or other assessment or treatment program will not be revealed to anyone

except as required by law. The Town will release an employee's records as directed by the express written consent of the employee authorizing release to an identified person. In addition, the Town will ensure that any lab or agency used to conduct testing under this Policy will maintain the confidentiality of employee test records. However, the lab or testing agency will disclose information related to a positive drug or alcohol test of an individual to: the individual being tested; the Town; the decision maker in a lawsuit, grievance, or other proceeding by or on behalf of the individual which arises from any action taken in response to a positive drug or alcohol test; or as required by law, including court order or subpoenas.

The Medical Review Officer (MRO) will not reveal individual test results to anyone unless the MRO has been presented with a written authorization from the tested employee. The MRO may reveal to the Town, without an authorization, relevant information as to whether the employee is qualified to perform safety-sensitive functions or whether the employee has tested positive for alcohol or a controlled substance. The Town will not release the information on the employee's qualifications to perform safety-sensitive functions to a third party without first obtaining the tested employee's written authorization and consent, except to the decision maker in a lawsuit, grievance, or other proceeding by or on behalf of the individual which arises from any action taken in response to a positive drug or alcohol test; or as required by law, including court orders or subpoenas.

All records related to drug and alcohol tests of employees will be maintained in individual files separate from the employee's personnel file.

Any questions regarding this policy should be directed to the Town Supervisor.

#### **XI. DRUG-FREE AWARENESS AND EMPLOYEE ASSISTANCE PROGRAMS**

In order to maintain a drug-free workplace and to provide confidential assistance to affected employees, the Town has established a drug-free awareness program which includes an EAP, to educate employees on the dangers of drug abuse in the workplace, its drug-free workplace policy, the availability of any drug-free counseling, rehabilitation programs and the penalties that may be imposed for violations of its drug-free workplace policy. Such education may include but not be limited to:

1. Distribution of a summary of the Town's drug-free workplace policy during the employment application process.
2. A discussion of the Town policy at the new employee orientation session.
3. Distribution of a list of approved drug assistance agencies, organizations and clinics.
4. Distribution of published educational materials regarding the dangers of drug abuse.
5. Inclusion of the policy in employee handbooks and other employee publications.
6. Lectures or training by local drug abuse assistance experts.

7. Discussion by Town safety experts on the hazards associated with drug abuse.
8. Video tape presentations on the hazards of drug abuse.

***XII. GENERAL***

Nothing in this policy is to be construed as a denial of rights guaranteed by the Collective Bargaining Agreement and/or those portions of federal and state laws that supersede the CBA.

**EMPLOYEE ACKNOWLEDGMENT FORM**

Detach and return this page to the Town Supervisor after you have read this Policy.

I acknowledge that I have received and read the Town of South Bristol Drug and Alcohol Testing Policy and the provisions contained therein on the date indicated below. I agree to abide by the terms of the policy.

SIGNED \_\_\_\_\_

DATE \_\_\_\_\_