

I. Purpose

It is the policy of the Town to provide a safe work environment for its employees and to protect the public by establishing and maintaining an alcohol and drug-free workplace. Alcohol and drug abuse is a problem of serious concern and one which affects all segments of the community, including the workplace.

II. Applicability

1. Applicants who have been offered employment must undergo a drug screen test as part of the hiring process.
2. All employees are covered under this *Substance Abuse Policy* and are subject to post-accident or post-incident testing.
3. Employees serving in positions determined to be safety sensitive are subject to random and “follow-up” testing, when applicable.
4. Employees who must hold a Commercial Driver’s License (CDL) as a requirement for the job are subject to random and “follow-up” testing as required by the U.S. Dept of Transportation.

III. Prohibited Conduct for All Town Applicants and Employees

The following conduct is expressly prohibited and violations will result in disciplinary action up to and including termination:

1. Possession, consumption, manufacturing, distribution, dispensation or being under the influence of an unauthorized controlled substance, an illegal drug, drug paraphernalia or alcohol while on duty, on Town premises, in Town-supplied vehicles, or in any Town work area. Law enforcement officials shall be notified, as appropriate, where criminal activity is suspected.
2. Sale, use, or possession of illegal drugs; or possession with intent to sell illegal drugs.
3. Off-premises abuse of alcohol or controlled substances when these activities adversely affect job performance, job safety, or the public’s confidence in an employee’s ability to perform their duties in an adequate and effective manner.

IV. Drug Screening Criteria

The Town of Forest City will consider an employee for a drug screening test under the following circumstances:

1. PRE-EMPLOYMENT Applicants who have been offered employment with the Town of Forest City will be required to undergo a drug screening test as part of the hiring process. The Town will withdraw an offer of employment made to any applicant whose drug screen test reveals the presence of illegal drugs or prescription drugs without a valid prescription.
2. POST-ACCIDENT or INCIDENT All full time and part time employees will be tested for the presence of controlled substances and/or alcohol following an on-the-job accident/incident that involves the following:
 - a. A fatality;

- b. Bodily injury requiring immediate medical attention or professional medical treatment away from the scene of the accident. The employee is tested only if circumstances indicate that such bodily injury (whether to an employee or citizen or both) may have been caused, at least in part, by the employee; or
- c. Property damage reasonably expected to be in excess of \$500.00, if circumstances suggest that an employee may have contributed to the accident/incident.

A post-accident drug and/or alcohol test will be administered as soon as possible, but not more than eight (8) hours following the time of the accident. Refusal to test shall result in termination.

- 3. REASONABLE SUSPICION TESTING When there is reasonable suspicion that any employee on duty has alcohol or drugs in his/her system, the employee will be tested. Reasonable suspicion must be based on specific, objective facts or reasonable inferences drawn from facts that would cause a reasonable person to suspect that the employee is or has been using drugs or alcohol.

Facts supporting a reasonable suspicion determination include, but are not limited to, any one or more of the following:

- a. Direct observation of prohibited drug or alcohol use;
 - b. Slurred speech;
 - c. Odor of marijuana or alcohol about the person;
 - d. Inability to walk a straight line;
 - e. Physical or verbal altercation;
 - f. Behavior that is so unusual that it warrants summoning a supervisor or anyone else in authority (i.e. confusion, disorientation, lack of coordination, marked personality changes irrational behavior);
 - g. Possession of drugs or alcohol;
 - h. A report of prohibited drug or alcohol use provided by a reliable and credible source; or
 - i. Arrests, citations, and deferred prosecutions associated with drugs or alcohol.
- 4. FEDERAL OR STATE MANDATED SUBSTANCE ABUSE TESTING Town employees who are subject to federal or state mandated substance abuse testing, including but not limited to Department of Transportation regulations, will be tested pursuant to such testing requirements notwithstanding this *Substance Abuse Policy*.
 - 5. RANDOM TESTING An employee that is entrusted with preserving public health/safety or the safety of other employees has a special responsibility to maintain physical and mental fitness for duty at all times while on the job. Testing may be conducted on a random basis on employees that hold safety-sensitive positions, chosen by a method that provides an equal probability that any employee from a group of employees will be selected. Safety-sensitive positions within the Town of Forest City are defined as:
 - a. All sworn law enforcement personnel;
 - b. Positions (full-time, part-time, or contract) requiring the consistent and frequent operation of heavy equipment or motor vehicles as a primary task;
 - c. Positions working around large equipment or with potential for hazards;

- d. Positions working with youth and/or those required to drive citizens or clients;
- e. Positions requiring the handling of hazardous materials, the mishandling of which may place the employee, fellow employees, or the general public at risk of serious injury, or the nature of which would create a security risk in the workplace; and
- f. Other positions as required by law, or as designated by the Human Resources Officer, due to the specific safety-sensitivity of individual jobs.

V. Relief from Duty

An employee may be placed on administrative leave for the balance of the work shift when tested under *Section (2) Post Accident or Incident*. An employee may be placed on administrative leave pending the outcome of the test results when tested under *Section (3) Reasonable Suspicion*.

Employees will normally be placed on annual leave or leave-without-pay while awaiting results of a post-accident/incident or reasonable suspicion drug test (since the employee is considered to be awaiting disciplinary action if the test is positive, use of sick leave is not authorized during this period). If the test is negative or if it is lost, employees may choose to utilize annual leave or take the lost work time as leave-without-pay.

VI. Testing Procedures

1. CONSENT Before a drug or alcohol test is administered, employees and job applicants will be asked to sign a consent form authorizing the test and permitting release of test results to those Town officials with a need to know. The consent form shall provide space for employees to acknowledge that they have been notified of the Town's *Substance Abuse Policy* and to indicate current or recent use of prescription or over-the-counter medication.
2. REFUSAL TO CONSENT Any employee who refuses to consent to a drug and/or alcohol test is subject to termination. Any final applicant who refuses to consent to a drug and/or alcohol test will have the offer of employment withdrawn.
3. CONFIDENTIALITY All information from an employee or applicant's drug and alcohol test is confidential and only those with a need to know are informed of the test results. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the employee or applicant. The results of a positive drug test shall not be released until the results are confirmed.
4. SPECIMEN COLLECTION
 - a. *Pre-Employment*. Applicants who refuse to take the tests will not be hired. The applicant will be required to provide proof of identification (such as picture driver's license) for inspection by the testing site.
 - b. *Post-Accident or Incident and Reasonable Suspicion*. Testing will be scheduled by the Human Resources Officer or designee. The employee shall be escorted to the testing location by a supervisor or other Town official who will carefully watch the employee to insure that he/she does not eat or ingest anything or that he/she does not acquire "clean" urine from another person.

Once at the testing facility, the medical staff is responsible for collection and chain of custody procedures, not the supervisor. To assure the privacy of the employee, the supervisor should not be a witness to the urine collection.

After the sample is obtained, the Town official shall either escort the employee home (or to some other requested destination) or obtain transportation for the employee upon the completion of the collection process. The supervisor will use every reasonable means to insure that the employee reaches his or her destination safely.

c. *Follow-up and Random.* Testing will be scheduled by Human Resources. Employees in positions or situations designated for follow-up and random testing will be notified by their supervisor that a specimen will need to be collected and/or that breath alcohol will be tested; a supervisor or other Town official should escort the employee to the testing site and carefully watch the employee to insure that he/she does not eat or ingest anything or that he/she does not acquire "clean" urine from another person.

5. TESTING REQUIREMENTS All drug and/or alcohol testing of employees and applicants shall be conducted in compliance with the Controlled Substance Examination Act, Article 20 of Chapter 95 of the North Carolina General Statutes. Such testing shall be conducted at medical facilities or laboratories selected by the Town. To be considered a testing site, a medical facility or lab should have the following factors:

- a. Testing procedures which ensure privacy to employees and applicants consistent with the prevention of tampering;
- b. Methods of analysis which ensure reliable test results, including the use of gas chromatography/mass spectrometry to confirm positive test results;
- c. Chain of custody procedures which ensure proper identification, labeling, and handling of test samples;
- d. Retention and storage procedures which ensure reliable results on confirmatory test of original samples; and
- e. Alcohol testing of employees shall be conducted by the medical facilities or laboratories selected by the Town.

VII. **Communication of Test Results**

In order to provide to the greatest extent possible, for the privacy and confidentiality of applicants and employees who are required to submit to substance abuse testing, all laboratory results will be sent to the Medical Review Officer.

1. NEGATIVE TEST RESULTS If the drug screening test result is negative, the Medical Review Officer will so advise the designated Town official who will inform the employee or job applicant.
2. POSITIVE TEST RESULTS If the drug screening test result is positive, the laboratory will report the findings to the Medical Review Officer who will then contact the employee to allow an opportunity to discuss the results before reporting them to the Town as a verified positive. A positive specimen will be preserved for an indefinite period. An employee or applicant who receives a positive confirmed test result may contest or explain in confidence the result with the MRO within seventy-two (72) hours after written notification of a positive result and ask questions of the MRO about

prescription and non-prescription medications. Any applicant or employee may request that their split specimen be tested at a second laboratory. The cost of any retest requested by an applicant or employee must be pre-paid, but will be refunded if a negative test result is received on the test.

A job applicant shall be informed of the positive test results verbally by the Human Resources Officer followed by a written notice of the test results and notice that the *Conditional Offer of Employment* has been withdrawn.

An employee shall be informed of the positive test results verbally by the City Manager (or his designee) followed by a written notice of the test results from the City Manager and the employee shall be terminated.

The employee has a right to appeal the termination per the Personnel Policy, Article X.

VIII. Failure of an Employee to Cooperate

Employee compliance with the Town of Forest City's *Substance Abuse Policy* is mandatory. Failure or refusal of any employee to fully cooperate and participate in the program, sign any required document or submit to a drug and/or alcohol screening test will be grounds for termination of employment.

IX. Summary

No part of this policy, nor any of its procedures, is intended nor shall be construed to affect the Town of Forest City's right to manage its workplace, to discipline its employees or to change the "at will" nature of employment with the Town. Since it is impossible to anticipate every situation which may arise under this policy, the City Manager should be contacted to resolve any situation not addressed herein. This contact should be made before action is initiated, if at all practical.