



TOWN OF OCEAN CITY

SUBSTANCE ABUSE POLICY

Purpose *This is a re-statement of the Substance Abuse Policy first issued on October 30, 1989.*

The purpose of this policy is to establish and maintain a workplace free from the influences of unauthorized controlled substances to include illegal drugs, legal drugs

used not in accordance with a prescription, alcohol, or any other intoxicant or substance of abuse.

Applicability

This policy applies to all applicants, current employees, and contract or leased individuals as well as consultants, contractors, vendors, and visitors on the

City premises at all times. Each such individual is responsible for abiding by this policy.

General Standards

All applicants considered for employment will be tested for drugs as a part of the pre-employment physical examination. Applicants who fail this test will be denied employment.

The unlawful manufacture, distribution, dispensation, purchase, possession, sale or use of illegal drugs or unauthorized controlled substances on City premises, in owned, leased or rented vehicles, or while engaged in business is prohibited. Some controlled substances are:

- X Narcotics (heroin),
- X Cannabis (marijuana, hashish),
- X Stimulants (cocaine, amphetamines),
- X Depressants,
- X Hallucinogens (PCP).

The possession, use, distribution, purchase or sale of alcohol, or being subject to the effects of alcohol while on City premises, or when providing services to the City in City owned, leased or rented vehicles is prohibited unless approved by management.

Employees who violate the above provisions will be subject to disciplinary action up to and including termination. Consultants, contractors, vendors or visitors who violate this provision risk the possible termination of the business relationship.

The providing of services to the City by any individual at any time when the individual is, in the opinion of the City, subject to the effects of any controlled

substance abuse is prohibited. Employees reasonably suspected by the City to have violated this provision may be referred for substance abuse testing, medical evaluation, and/or be subject to disciplinary action up to and including termination. Unless prohibited by law, termination of employment will occur as a result of the following:

- X refusal to submit to a drug and/or alcohol test
- X failing to complete a substance abuse treatment program
- X failing a management initiated drug test which includes, but not limited to, reasonable suspicion, random, post incident, and return-to-duty testing.

Consultants, contractors, vendors or visitors who violate the above provision risk the possible termination of the business relationship.

It is the policy of the Town of Ocean City to assist those employees with substance abuse issues who self-identify or voluntarily seek assistance before they are found to be in violation of this policy.

The Town of Ocean City reserves the right to take whatever measures in addition to those listed that are necessary and appropriate to effectuate this policy.

The Town of Ocean City also reserves the right to modify or terminate this policy at any time.

Specific Standards Applicable to Certain Departments

These standards are in addition to and not a limitation of the General Standards

Department Of Transportation Covered Employees

Federal Transit/Federal Aviation Administration

Federal Highway Administration

Employees who perform certain functions as defined by the Federal Transit Administration will be required to submit to testing for illegal drugs, unauthorized use of controlled substances or alcohol. Under Federal law, individuals who fail such testing may not perform a covered function. In addition, such employees will be subject to disciplinary action up to and including termination.

Employee drivers of designated commercial motor vehicles as defined by the Federal Highway Administration will be required to submit to testing for illegal drugs, unauthorized use of controlled substances or alcohol. Under Federal-law, individuals who fail such testing may not operate a commercial motor vehicle. In addition, such employees will be subject to disciplinary action up to and including termination.

DENNIS W. DARE, CITY MANAGER: Approved

DATE: August 14, 1998

Revised 2/99



TOWN OF OCEAN CITY

Alcohol and Drug Testing Procedures

The Mayor and City Council, Town of Ocean City, Maryland have agreed to adopt the following procedures to ensure a drug free and safe work place and community for all employees of and citizens in the Town of Ocean City.

DEFINITIONS - In our procedures the following words have these definitions:

"Alcohol" - the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

"Alcohol use" - the consumption of any beverage, mixture, or preparation, including any medication containing alcohol.

"Breath alcohol technician (BAT)" - an individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).

"Confirmation test" - for alcohol testing means a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration. For controlled substances testing means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy.

"Driver" - any person who operates a commercial motor vehicle. For the purpose of pre-employment testing, the term driver includes a person applying to drive a commercial motor vehicle.

"Employer" - means the Mayor and Council of the Town of Ocean City as the entity who owns or leases a commercial motor vehicle or assigns persons to operate such a vehicle, including agents, officers, and representatives of the employer.

"Evidential breath testing device (EBT)" - A device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Product's List of Evidential Breath Measurement Devices" (CPL).

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

"Performing (a safety-sensitive function)" - any period in which the employee is actually performing, ready to perform, or immediately able to perform any safety-sensitive functions.

"Refusal to submit (to an alcohol or controlled substance test)" - a driver (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, (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 of urine testing and been given up to 2 hours to perform, or (3) engages in conduct that clearly obstructs the testing process.

"Safety-sensitive function" - any of those on-duty functions as listed below:

- (1) All the time at a carrier or shipper plant, terminal, facility, or other property, waiting to be dispatched, unless the driver has been relieved from duty by the employer.

- (2) All time inspecting equipment as required by the Federal Motor Carrier Safety Regulations (FMCSR's), 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.
- (4) All time, other than driving time, spent on or in a commercial motor vehicle.
- (5) All time loading or unloading a commercial motor 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.
- (6) All time spent performing the driver requirements associated with an accident.
- (7) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
- (8) All other potentially hazardous operations throughout the City which do or could expose persons to equipment such as machinery (moving or stationary), electrical components with exposed connections and other devices having exposed drive belts, pulleys and resulting pinch-points. (This list is not all inclusive.)

"Screening test (aka initial test)" - in alcohol testing it means an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his or her system. In controlled substance testing it means an immunoassay screen to eliminate "negative" urine specimens from further considerations.

"Substance abuse professionals" - a licensed physician (Medical doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addictions counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

A. PROCEDURES - The Town of Ocean City has established the following alcohol and substance abuse procedures:

APPLICABILITY

All Town of Ocean City employees, full-time and seasonal, who are required to have a commercial driver's license (CDL) and those employees that could be called upon to perform the functions of the Commercial Motor Vehicle work force, including supervisors, and all other full-time positions in the City are subject to the controlled substance and alcohol testing rules.

B. CONDUCT - Prohibited Alcohol and Controlled Substance-Related Conduct

The following alcohol and controlled substance-related activities are prohibited by the Federal Highway Administration's and the Federal Transit Administration's drug use and alcohol misuse rules for drivers of commercial motor vehicles:

Reporting for duty or remaining on duty to perform safety sensitive functions while having an alcohol concentration of **0.04** or greater. An alcohol concentration greater than **0.02 but less than 0.04 would require the employee to be removed from a safety sensitive position for a minimum of 24 hours.**

Being on duty or operating a commercial motor vehicle (CMV) while the driver possesses alcohol, unless the alcohol is manifested and transported as part of a shipment. This includes the possession of medicines containing alcohol (prescription or over-the-counter), unless the packaging seal is unbroken.

Using alcohol while performing safety-sensitive functions. When required to take a post-accident alcohol test, using alcohol within eight hours following the accident or prior to undergoing a post-accident alcohol test, whichever comes first.

Refusing to submit to an alcohol or controlled substance test required by post-accident, random, reasonable suspicion or follow-up testing requirements.

Reporting for duty or remaining on duty, requiring the performance of safety-sensitive functions, when the driver uses any controlled substance; except when instructed by a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a CMV.

Reporting for duty, remaining on duty or performing a safety-sensitive function, if the driver tests positive for controlled substances.

C. TESTING

In order to enhance highway transportation safety, Congress passed the Omnibus Transportation Employee Testing Act of 1991. The Act required the Federal Highway Administration and the Federal Transit Administration to establish regulations requiring drivers of commercial vehicles to be tested for use of controlled substances and the misuse of alcohol. The following are the types of tests the City requires to be performed:

Pre-employment Testing - All applicants for seasonal and full-time employment in safety-sensitive positions requiring CDLs or individuals transferred to the positions or all other candidates for full-time positions in the Town must be given pre-employment drug tests.

Post-Accident Testing - Testing for prohibited drugs and alcohol is required in certain types of accidents and injuries:

- 1.) An accident is defined as an occurrence in which:
 - an individual dies.
 - an individual suffers a bodily injury and immediately receives medical treatment away from the scene of an accident.
 - if one or more vehicles involved incurs disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle.
 - the vehicle involved is a railcar, trolley car, trolley bus or vessel, and is removed from revenue service.
- 2.) An OSHA recordable injury is one which should be recorded on the OSHA 200 Log. Included are:
 - on-the-job deaths.
 - on-the-job injuries; illnesses.
 - others noted on the 200 Log.

Random Testing - Federal Highway Administration and Federal Transit Administration Regulations require the random testing for drugs and alcohol use by all safety-sensitive employees.

Reasonable Suspicion Testing - An employee may be required to submit to a test when the employer has reasonable suspicion that the employee has used a prohibited drug or has misused alcohol as defined by the Federal Highway Administration and the Federal Transit Administration Regulations as well as the descriptions found elsewhere in this document. The respective manager or supervisor will have completed a "Reasonable Suspicion Test Documentation" form to formalize the reasons why the test was deemed necessary. (See attached copy.)

Return-to-Duty-Testing - Before any employee is allowed to return to duty to perform a safety-sensitive

function following a verified positive drug test result, an alcohol result of between 0.02 and 0.04, a refusal to submit to a test, or any other activity that violates the regulations, that employee must first be subject to an evaluation by a substance abuse professional and pass a return to duty test.

Follow up Testing - Once allowed to return to duty, an employee shall be subject to unannounced follow-up testing for at least twelve months, but not more than sixty months. The frequency and duration of the follow-up testing will be recommended by the substance abuse professional as long as a minimum of six tests are performed during the first twelve months after the employee has returned to duty.

Split Sample Testing - Controlled substances tests conducted must follow split sample procedures. Under this provision, a person whose urine sample has tested positive for a controlled substance has the option (within 72 hours of being notified by the MRO) of having the other portion of the split sample tested at another laboratory at their own expense. If the second portion of the split sample also tests positive, then that person is subject to the sanctions contained in the regulations. If the second portion produces a negative result, or for any reason the second portion is not available, the test is considered negative and no sanctions are imposed.

Refusal Definitions - "Refusal to submit to an alcohol or controlled substance test" - a person (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, (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, or (3) engages in conduct that clearly obstructs the testing process, or simple unwillingness to comply with the request to participate and cooperate.

A REFUSAL AS DEFINED ABOVE WILL BE INTERPRETED AS A POSITIVE READING AND RESULT IN AUTOMATIC DISCHARGE.

Consequences to Drivers Engaging in Conduct Prohibited by the Federal Highway Administration's and the Federal Transit Administration's Drug Use and Alcohol Misuse Rules.

Drivers who self declare to have problems with regard to alcohol misuse or use of controlled substances, are subject to the following consequences:

- * Drivers shall not be permitted to perform safety-sensitive functions and will work in another capacity, if such work is available. If work is not available, employee will be on unpaid leave until such problems have been identified and are working toward a solution.
- * Drivers shall be advised by their supervisor or the City's Human Resources Department of the resources available to them in evaluating and resolving problems associated with the misuse of alcohol or use of controlled substances.
- * Drivers shall be subject to evaluation by a Substance Abuse Professional (SAP) through a qualified agency or an appropriate agency through our medical insurance program who shall determine what assistance, if any, the employee needs in resolving their abuse problems.
- * Before a driver returns to duty requiring performance of a safety-sensitive function, he/she shall undergo a return-to-duty, alcohol test with a result indicating a breath alcohol level of less than 0.02 if the conduct involved alcohol, or a controlled substance test with a verified negative result if the conduct involved controlled substance use.
- * In addition, each driver identified as needing assistance in resolving problems associated with alcohol or controlled substances, shall be evaluated by a SAP to determine that the driver has followed the prescribed rehabilitation program and will personally pay for any medical expenses incurred as a result of the treatment program.
- * The driver will also be subject to unannounced follow-up alcohol and controlled substance testing. The number and frequency of such follow-up testing shall be as directed by the SAP, and consist of at least six tests in the first 12 months.

If the results of the driver's alcohol test indicate an alcohol concentration of 0.02 or greater, but less than 0.04, the driver shall not be permitted to perform safety-sensitive functions until the start of the driver's next regular scheduled duty period, but not less than 24 hours following the administration of the test.

D. CONDITIONS OF CDL ALCOHOL/DRUG TESTING PROCEDURES

1. Alcohol Testing:

Employees suspected of "Operating While Intoxicated" or "Operating While Under the Influence" of alcohol will be initially screened by a supervisor or Town of Ocean City law enforcement officer. Initial screening may include field test and preliminary breath test by a trained EBT operator. If it is determined that the individual may be operating a vehicle "while intoxicated", or "under the influence" of alcohol, an EBT test of that individual's breath will be ordered. The employee also may have a physician administer a test for alcohol at the employee's expense in addition to the test directed by the Town of Ocean City or other qualified testing organization. Testing results will be kept by the Human Resources Department on a confidential basis.

2. Drug Testing:

Drug testing will be conducted by a qualified testing facility with results kept by the Human Resources Department on a confidential basis. The FHWA and the FTA regulations requires testing for the following drugs (or their metabolites):

- Marijuana
- Cocaine
- Opiates (e.g., heroin, morphine, codeine)
- Phencyclidine (PCP)
- Amphetamines (e.g., racemic amphetamine, dextroamphetamine, and methamphetamine)

3. Disciplinary Actions:

Employees who refuse alcohol or drug testing or who test positive for alcohol or illegal drugs shall be subject to termination of employment as stated in Section C above and the Town of Ocean City Personnel Policies Governing Classified Employees Manual.

Discipline will be taken as noted based on the following events:

- A. Negative Test Results:** should the tested employee be in active work status during the test for any of the reasons listed before, that person is permitted to return to work and is to be paid for the time spent testing.
- B. Positive Test Results:** should the employee test positive for alcohol with a level of .04 or greater or for unauthorized controlled substances (those cited in D.2. above) will result in Automatic Discharge.

4. Management Approved Functions - The Town of Ocean City management has identified the following as functions where the use of alcohol may be permitted:

- A. Dinner meetings held off-premises for official business purposes.
- B. Picnics/Christmas parties held either off-premises or on City property.
- C. Other events that may arise with the City Manager's approval.