



## **ALCOHOL AND DRUG TESTING POLICY**

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### **I. PURPOSE**

The Town of Freedom is committed to a drug and alcohol-free workplace. In order to ensure the safety of its employees and the general public, as well as to comply with 49 CFR Part 382 and other pertinent federal laws, the municipal officers have adopted this employment policy. The Town takes pride in its employees who perform critical duties efficiently, courteously, and safely.

### **II. EMPLOYEES COVERED BY THIS POLICY**

This policy applies to all regular full-time, part-time, seasonal, and temporary employees. Individuals receiving a W-2 from the Town of Freedom will be considered a Town employee. All employees shall receive a copy of this policy and related material.

Independent contractors and their employees who must hold a CDL for the contracted activity are subject to the requirements of 49 Code of Federal Regulations Part 382 and are responsible for compliance. The Town will not provide or pay for tests or rehabilitation for independent contractors or their employees. The Town shall make compliance with the law a condition of any contract which requires a CDL driver.

### **III. PROGRAM ADMINISTRATOR**

The Select Board is responsible for designating an Alcohol/Drug Testing Program Administrator for the Town. The Program Administrator is responsible for communication and coordination with a third-party drug and alcohol testing contractor used by the Town to conduct the drug/alcohol tests. The Administrator will communicate with the employee's supervisor designated by the Selectboard

**NOTE:** Random alcohol testing must be conducted just before, during, or after a driver performs a safety-sensitive duty. Random drug testing does not have to be conducted in immediate time proximity to performing safety-sensitive functions.

- C. **Post-accident:** As soon as is practical after an accident, the employee shall be tested for alcohol and drugs if: (a) the accident involved the loss of human life; (b) the employee must receive medical treatment away from the accident scene, or (c) the employee received a citation for a moving traffic violation arising from the accident.
- D. **Reasonable suspicion:** Any employee who exhibits signs and symptoms of alcohol and/or drug abuse to a trained supervisor while on the job will be required to submit to an alcohol and/or drug test. The supervisor shall document the specific facts, symptoms, or observations by completing a "Reasonable Suspicion Record" form.

**NOTE:** Employees shall not be allowed to drive themselves to the testing facility for a reasonable suspicion test. The supervisor or their designee shall provide transportation to the testing facility.

- E. **Return-to-duty:** Any employee who engaged in conduct prohibited by this policy must submit to an alcohol test and drug test to return to duty. The results of a drug test must be negative to return to duty, and the results of an alcohol test must be less than 0.02 to return to duty.
- F. **Follow-up:** Any employee who previously tested positive and has returned to duty must submit to a combination of at least six (6) alcohol and drug tests during the first year after returning to work. Follow-up tests will be unannounced and may continue for up to five years after returning to work, not to exceed twelve (12) a year.

## **VI. PROHIBITED CONDUCT:**

Town employees shall **NOT**:

- A. Report to work and/or remain on duty with an alcohol concentration of 0.04 or greater;
- B. Possess any alcohol while on duty;
- C. Use any alcohol while on duty;
- D. Use any alcohol within four (4) hours before going on duty;

to undergo evaluation by a substance abuse professional if the test result is 0.02 or greater but less than 0.04, nor will a return-to-duty test be required unless there is reasonable suspicion that the employee is still under the influence of alcohol or drugs.

**NOTE:** This paragraph applies only in limited situations. For example, if an employee last consumed alcohol more than 4 hours before work but still has a blood/alcohol level of .03 when they show up for work, they are not violating Paragraph VI but are subject to this paragraph.

#### **IX. NOTICE AND CONSENT**

Before a drug or alcohol test is administered, employees and job applicants will be asked to sign a consent form authorizing the tests and a permission form to release the test results to those officials with a need to know. The chemical screen consent form shall provide space to indicate the current or recent use of prescription and over-the-counter medication.



All recruitment announcements for any position, including in-house recruitment and promotion, will disclose that the applicant will require a drug screening test.

#### **X. CONSEQUENCES OF VIOLATION OF THIS POLICY**

- A. Any employee who violates Paragraphs VI or VII of this policy shall be immediately removed from the safety-sensitive function and will be advised by the Town of the resources available for evaluating and resolving drug and alcohol abuse problems. Before returning for work the employee is required to be evaluated by a substance abuse professional. All evaluation and rehabilitation shall be at the employee's expense unless otherwise agreed by the Town. An employee shall be allowed to return to the safety-sensitive function once they have a return-to-duty alcohol test result of less than 0.02 or a return-to-duty drug test with a verified negative result.
- B. In addition, any employee who violates Paragraphs VI or VII of this policy may be subject to disciplinary action up to and including dismissal. Before discipline, reassignment or dismissal is imposed, the employee shall have the opportunity to participate in a rehabilitation program for up to six (6) months. The employee is responsible for all costs associated with the rehabilitation program unless otherwise agreed by the Town. Factors to be considered in determining the appropriate disciplinary response include but are not limited

result by contacting the Medical Review Officer. This shall be done within seventy-two (72) hours after notification of the confirmed result. No further action will be taken if there is a justified explanation or there is a reasonable doubt as to the accuracy of the result or chain of custody of the sample.

- B. Any employee with a positive test result may, upon written request to the Program Administrator, have the right to any information relating to the test result and procedures. A job applicant may request information concerning the test result within sixty (60) days after the decision on their employment application.
- C. Upon successfully participating in a rehabilitation program (within 6 months after it commences) and upon passing a return-to-duty drug and/or alcohol test, the employee may be considered for their previous job with full pay (but not back pay) and benefits, unless conditions unrelated to the employee's previous test make the employee's return impossible. In consultation with the Town, the rehabilitation or treatment provider shall determine whether the employee has successfully participated in the rehabilitation program. The Town is not required to hold the employee's job open. Any subsequent second offense positive test will result in immediate suspension without pay and termination after being notified of a second confirmed (MRO-certified) positive test for the use of an unauthorized substance.
- D. Employees may be allowed back to work before the 6 month period if they participate actively in a drug/alcohol program and submit weekly negative drug tests. The testing will be done at the employee's expense. Factors to be considered in determining the length of time suspended before being allowed back to work include but are not limited to, the following: employee's work history, length of employment, current job performance, and the existence of past disciplinary actions. Disciplinary action is imposed by Town policy; it is not required by federal law.
- E. Any subsequent second offense positive test will result in immediate suspension without pay and termination after being notified of a second confirmed (MRO-certified) positive test for the use of an unauthorized substance.

Action	Date	Signatories
Proposed	AUG 6, 2023	Lana Creeley  St. Paul
Adopted	NOV 13, 2023	Lana Creeley  St. Paul
Revised		