

TOWN OF SANDWICH

DRUG AND ALCOHOL USE POLICY

(Policy Attachment #5)



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TOWN OF SANDWICH

DRUG AND ALCOHOL USE POLICY

I. PURPOSE:

The purpose of this policy is to outline the responsibilities of employees, supervisors, and managers with regard to drug and alcohol use in the workplace and the testing of employees in safety-sensitive positions requiring a commercial drivers' license in accordance with U.S. Department of Transportation regulations, issued under the Omnibus Transportation Employee Testing Act of 1991.

The Town is committed to providing a drug and alcohol-free workplace and recognizes drug and alcohol dependency as an illness and major health problem. Employees needing help in dealing with such problems are encouraged to use the Town's Employee Assistance Program and their own health insurance plans, as appropriate. Efforts to seek such help will not jeopardize an employee's job. Employees may also contact the Human Resources Department at 508-833-8061 for confidential assistance.

The Town of Sandwich is committed to the treatment and rehabilitation of employees with drug and alcohol misuse problems, and encourages employees to come forward voluntarily to seek assistance for those problems. If at any time an employee volunteers to enter a chemical dependency program, he/she will enter without disciplinary action being taken against him/her solely as a result of seeking treatment.

II. APPLICABILITY:

This policy applies to all Town employees.

III. DEFINITIONS:

Refer to the appendix for an explanation of terms and abbreviations used in this policy.

IV. DRUG AND ALCOHOL POLICY FOR ALL TOWN EMPLOYEES:

Reporting to work under the influence or working with impaired abilities due to the effects of illegal drugs, including marijuana or alcohol is prohibited and will be grounds for discipline up to and including termination. In addition, the manufacture, possession, consumption, or distribution of illegal drugs, including marijuana or alcohol is also prohibited and will also be grounds for disciplinary action up to and including termination.

An employee who engages in the performance of a federal grant is required to acknowledge receipt of this policy and, as a condition of employment, abide by the terms of the policy and report to the Town any conviction under a criminal drug statute for a violation occurring on or off Town premises while conducting Town business. Said report will be filed with the Human Resources Department within five (5) days after the conviction.

The Town will notify the federal agency, which awarded the grant of any employee who is so convicted within (10) days after receiving notice of an employee conviction.

V. POLICY REGARDING DRUG AND ALCOHOL TESTING FOR SAFETY-SENSITIVE TOWN EMPLOYEES:

A. It is the policy of the Town of Sandwich to comply fully with the regulations mandating pre-use, random, reasonable suspicion and post-accident drug and alcohol testing in accordance with regulations issued by the U.S. Department of Transportation. This policy contains the requirements of the regulations, except where indicated that a particular provision is based on the authority of the Town.

B. For purposes of this policy the following conduct is prohibited:

1. Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions with a breath/blood alcohol content of 0.04 percent (or higher). **In addition to the preceding requirements of Federal law, pursuant to its authority, the Town prohibits the performance of any safety-sensitive function by an employee with an alcohol concentration of 0.02 percent or greater.**
2. Use of alcohol within four (4) hours prior to performing a safety-sensitive function like driving.
3. Use of alcohol on the job.
4. Use of alcohol during the eight (8) hours following an accident;
5. Possession of any medication or food containing alcohol while driving a vehicle unless the package seal is unbroken
6. Use of controlled substances by drivers covered by the Policy is prohibited, except when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle. Drivers must provide the Town Human Resources Department with written notice from a physician of any therapeutic use of controlled substances.

C. A driver is considered to be 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 (CMV) at any time.
3. All driving time.
4. All time other than driving time in or upon any CMV.

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;
7. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

VI. PROCEDURES:

A. TYPES OF TESTS:

1. **Pre-employment**: All applicants for employment in positions requiring a Commercial Driver's License, or candidates for transfer or promotion to such a position are subject to screening for improper use of alcohol or controlled substances.
2. **Post-Accident**: Following an accident where a life was lost or the driver was cited for moving traffic violation. Post-accident alcohol testing should be done within two hours of the accident. If a test cannot be done within eight hours, it probably will not be done. Post-accident drug testing shall be done within 32 hours.
3. **Random**: Unannounced random testing is required on a certain percentage of drivers each year. Each time a selection is made by the random selection process, every driver in the pool has an equal chance of being tested, regardless of whether they have been tested previously.

Random testing for alcohol shall be completed just before, during or immediately after performing safety sensitive work. Random testing for drugs, however, may be done at any time the employee is at work. Once the driver is notified he/she has been selected for random testing, he/she must proceed immediately to the test site.

Random testing is done as follows:

50% of all drivers shall be randomly tested for alcohol during each year of the testing program.

50% of drivers shall be randomly tested for controlled substances during each year of the testing program.

4. **Reasonable Suspicion**: If a supervisor has reason to believe that an employee's behavior or appearance may indicate alcohol or drug use, a test will be ordered. Testing for reasonable suspicion is based on:
 - a. the observances of a trained supervisor with the concurrence of a second trained supervisor or manager

- b. specific, clearly stated observations concerning the driver's appearance, behavior, speech or body odor
- c. observations made for alcohol testing shall be made just before, during or just after the performance of a safety-sensitive function.

An employee cannot report for duty or remain on the job while under the influence of alcohol as shown by behavior, speech or performance that indicates alcohol misuse. An employee will not be allowed to continue to perform safety-sensitive duties until his/her alcohol concentration is less than 0.02, or 24 hours have passed from the time of the initial observation.

- 5. **Return to Duty and Follow-up:** Return to duty testing is required for drivers who violate prohibitions and are returning to work.

Follow-up testing is required when a driver returns to a safety-sensitive function. A minimum of six tests shall be performed during the first year back in a safety-sensitive position. However, follow-up testing may continue for up to five years.

The Town will not pay for the testing of a former employee, for the follow-up testing of any new employee due to a violation as defined by the Department of Transportation while that individual was employed by another employer, or for a second sample test requested by the employee whose result is positive.

B. Conducting Tests

1. 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.

2. Drugs

- a. 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 (DHHS) certified facility. Specimen collection procedures and chain of custody requirements ensure that the specimen's security, proper identification and integrity are not compromised.
- b. 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 driver has 72 hours to request that the split specimen be sent to another DHHS certified laboratory for analysis.

- c. All urine specimens are analyzed for the following drugs:

Marijuana (THC metabolite)
Cocaine
Amphetamines
Opiates (including heroin)
Phencyclidine (PCP)

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.

- e. All drug tests are reviewed and interpreted by a physician designated as a Medical Review Officer (MRO) before they are reported to the employer. If the laboratory reports a positive result to the MRO, the MRO will contact the driver 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.

3. **Refusal to Submit to an Alcohol and Drug Test and the Consequences**

Refusal to submit to an alcohol or controlled substances test means that 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 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 part, or (3) engages in conduct that clearly obstructs the testing process.

Employees who refuse to submit to an alcohol or drug test are not allowed to perform safety-sensitive functions. Pursuant to the Town's authority, employees who refuse to submit to a test will be subject to discipline, up to and including termination.

VII. CONSEQUENCES OF VIOLATING ALCOHOL OR DRUG PROHIBITIONS:

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. Depending on the circumstances, disciplinary action, up to and including termination will be imposed upon an employee whose alcohol test reveals any alcohol concentration (between 0.02 and 0.04).
2. 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. Drivers who are serving a probationary period may be terminated immediately. Non-probationary drivers will be offered an opportunity for rehabilitation in accordance with section 3 below.

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) who wish to continue employment with the Town of Sandwich must be evaluated by a substance abuse professional and comply with any treatment recommendations to assist them with an alcohol or drug problem. Drivers who refuse to be evaluated by a substance abuse professional will be terminated. (The payment for any recommended treatment will be the responsibility of the employee. The employee may offset the cost of treatment through his/her health insurance program, if applicable. Any benefits offered by a Town-sponsored Employee Assistance Program may also be utilized.) Employees will be placed on "leave without pay" status during the treatment period, subject to any discipline imposed by the Town.
4. Drivers who are not terminated and who have been evaluated by a substance abuse professional, who comply with any recommended treatment, who have taken and passed with a negative result, a return to duty test and who are then subject to unannounced follow-up tests, may return to work upon approval of the Town Manager.
5. Drivers who have returned to work under these conditions and who subsequently test positive for alcohol or drugs in accordance with this policy may be terminated immediately.
6. Once an employee successfully completes rehabilitation, he/she shall be returned to his/her regular duty assignment or an equivalent position. As a condition of employment, the employee must comply with prescribed follow-up care.

VIII. TREATMENT:

The Town will provide any driver found to have engaged in any prohibited conduct relating to alcohol or controlled substances with information of the available resources for evaluating and treating the problem. The employee will be given information regarding the Town's Employee Assistance Program. A Substance Abuse Professional must evaluate the employee, who will determine what assistance the employee needs.

In accordance with the Employee Assistance Program, the Town will pay for up to three (3) visits to a SAP. Any additional visits must be paid for by the employee or through the employee's health insurance plan, if applicable. Please contact the Human Resources Department for more information on the Employee Assistance Program.

If a SAP determines that an employee needs additional assistance, the employee must be re-evaluated by the SAP to determine if the employee has followed the prescribed rehabilitation program, and the employee must submit to follow-up testing as described in this policy.

The Town holds no obligation to an employee who refuses to submit to a test, or to an applicant who is found to have a controlled substance in his/her system.

IX. INFORMATION/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 supervisory and management personnel in departments with safety-sensitive positions must attend at least two hours of training on alcohol misuse and drug use symptoms and indicators used in making determinations for reasonable suspicion 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-employment drug screening and "reasonable suspicion" 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 for safety-sensitive positions will 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.

X. RECORD KEEPING:

1. The Town is required to keep detailed records of its drug and alcohol testing program.
2. Driver alcohol and drug testing records are confidential. Test results and other confidential information may only be released to the employer, the substance abuse professional, and the Medical Review Officer. Any other release of this information may only be made with the driver's consent, or in response to a court order.

XI. COMMERCIAL DRIVER'S LICENSE DRUG AND ALCOHOL CLEARINGHOUSE AND PRE EMPLOYMENT REFERENCE REQUIREMENTS:

All Commercial Driver's License Holders must comply with the provisions of the Commercial Driver's License Drug and Alcohol Clearinghouse. The Clearinghouse rules require the following:

- Prospective and current employees must grant ongoing permission to the Town in order to review their commercial driving record history on the Clearinghouse.
- The Human Resources Department will assist any prospective or current employee with registering on the Clearinghouse, if needed.
- The Town will be required to query the Clearinghouse for current and prospective employees' drug and alcohol violations before permitting those employees to operate a commercial motor vehicle (CMV) on public roads.
- The Town will be required to annually query the Clearinghouse for each driver they currently employ;

XII. EFFECT OF ALCOHOL AND SUBSTANCE ABUSE:

A. Signs and Symptoms

The following signs are indicators of alcohol or other substance abuse problems; however, any or all of these signs can be attributed to other problems or conditions. This list should help trained supervisors in determining reasonable suspicion or in alerting other employees to a co-worker's need of assistance. The proper diagnosis of substance abuse can only be made by a medical doctor or other certified health care professional.

1. Job Performance

- excessive absence or tardiness, frequent illness
- repeated errors, below average work performance
- complaints from co-workers
- easily distracted, difficulty following directions, poor attention to detail
- frequent trips away from work area
- visited regularly by other employees or visitors
- excessive secretive telephone calls
- long rest room breaks
- changes in usual work habits, drop in efficiency
- accident prone
- poor physical appearance
- wearing sunglasses at inappropriate times
- dramatic mood swings
- excessive conflict in work relationships

2. **Physiological**

- bloodshot eyes, excessive perspiration
- habitual talking, hyperactivity, slurred speech
- tendency toward violence
- problems with coordination
- chronic nasal problems, excessive weight loss

3. **Drug Paraphernalia**

- hand-rolled cigarettes, cigarette paper
- roach clips, plastic baggies, glassine envelopes
- bent spoons, razor spoons, short straws

B. Other Effects of Alcohol and Controlled Substances

Alcohol or controlled substance misuse is a serious problem with potential devastating effects. Substance abuse may be detrimental to an individual's health, personal or social life and work. Often substance abuse leads to further problems such as financial difficulty and the involvement in illegal activities. Substance abusers endanger not only themselves, but often their co-workers, friends, family, the public, and Town operations. Below are some of the behaviors and problems associated with alcohol and drug use, abuse and withdrawal.

1. **Alcohol**

If abused, alcohol may cause increased blood pressure, heart rate and temperature. It may lead to marked sleep disorders. Over time, it may cause organ disease, most predominantly liver disease, including liver cancer. Alcohol abusers may experience blackouts, disorientation, hallucinations, and poor judgment. Physical addiction to alcohol is likely and people who misuse alcohol often suffer from a lack of social control and alienation of their co-workers, friends and family. Slurred speech, poor muscle coordination, staggering and sleepiness are potential effects that can be extremely dangerous for employees performing safety-sensitive functions.

2. **Cocaine**

Cocaine may cause a marked decrease in productivity. The user may be easily distracted, jittery, aggressive, tired, demanding and subject to mood swings. Cocaine may cause paranoia, severe weight loss, financial problems, seizures, anxiety, suicidal depression cardiac disturbances, brain damage, or an irregular heartbeat. The user may also suffer from the associated dangers of IV use or overdosing.

3. **Marijuana**

Marijuana causes slowed movements and reaction time, dilated pupils, slowed speech, poor judgment, frequent day dreaming, and poor problem-solving ability. The smoke may cause damage to pulmonary systems. Memory deficits, sweats,

lung cancer and sleep disturbance may result. Females may also experience decreased fertility. The drug may be mixed with other drugs or harmful ingredients.

4. **Opiates**

The opiate user is often lethargic, day dreaming, not moving, or nodding out. Frequently, the user has a vacant stare or a silly grin. The user risks the associated dangers of IV use, overdose, financial problems, weight loss and depression. Opiates may cause a persistent runny nose, teary eyes, dilated and reactive pupils, gastrointestinal disturbance, low back pain, leg cramps, flu symptoms and physical addiction.

5. **Amphetamines**

Users are often self-assured, cocky, jittery, easily distracted, unproductive, aggressive, demanding, talkative, irritable, and subject to mood swings, sleepiness and anxiety. Amphetamines may cause paranoia, severe weight loss, financial problems, psychosis, cardiac disturbance, seizures, suicidal depression, brain damage, liver and kidney damage, exaggerated sleeping and eating, a very slow pulse and mental confusion. Amphetamine users also risk overdosing and the dangers associated with IV use.

6. **PCP**

PCP use may cause an extreme fluctuation of mood and behavior from loving to hostile, a dazed and vacant appearance, responses to hallucinations that can appear crazed and slurred speech. The user may be uncoordinated or agitated and suffer from flashbacks or loss of control of thought processes, which significantly impairs judgment. Responses to hallucinations may lead to suicide or homicide. There is a possible risk of chromosome damage and heavy users may experience recurring thought disorders or brain damage.

XII. FINDING HELP:

A. Responsibilities in Identifying the Problem

1. **Supervisors**

As alcohol and substance abuse is a serious and potentially life-threatening problem, it is the responsibility of the supervisor to request that a drug and/or alcohol test be administered if reasonable suspicion exists. By ignoring signs of a problem, the supervisor is putting the lives of the public, of the co-workers of the employee and of the employee him/herself in danger.

2. **Co-Workers**

Any other employee with a concern regarding possible evidence of alcohol or drug abuse by a co-worker should see a trained supervisor immediately. Such matters should be conducted privately and with extreme attention and respect paid to the confidentiality of the employee in question.

3. **Self-Identification**

As the main purpose of this policy and the drug and alcohol testing is to deter drivers from performing safety-sensitive functions while unfit to do so, the Town will allow a driver to decline from performing or continuing to perform the function if the driver knows he/she may be impaired by alcohol or controlled substances, without disciplinary punishment. Any driver who does so will be unable to work again for the remainder of that workday and will lose the pay for the remainder of that workday.

A driver will be referred to a SAP and disciplinary action may be taken if a driver removes him/herself from his/her duties more than once during their employment with the Town. A driver who voluntarily dismisses him/herself from duty after being notified of selection for drug or alcohol testing will be subject to the requirements and disciplinary action accorded to those drivers whose tests indicate alcohol or controlled substance use.

B. Employee Assistance Program

Employees needing help dealing with alcohol or other substance abuse problems are encouraged to use the Town's Employee Assistance Program, support services provided under their medical plan, or any other support services available.

All information regarding participating in the Employee Assistance Program is strictly confidential. The program is available to employees, as well as their spouses, and dependents and retirees. The Employee Assistance Program is also available to individuals seeking counseling for other personal and family issues

XIII. EMPLOYEE RIGHTS AND RESPONSIBILITIES:

A. Employee Rights

An employee with a test result showing a breath alcohol concentration of 0.02 or greater or a positive test result for controlled substances must be notified by the Medical Review Officer (MRO) immediately. The MRO is not responsible for discussing the results with employees who decline the opportunity to speak with the MRO or who are contacted but do not respond within five (5) days of the initial contact.

An employee whose urine sample has tested positive for a controlled substance has the option, within 72 hours of being notified of the test result, of having the second portion of the split sample tested at another approved laboratory. If the test results for the second sample are negative, or if the second portion is not available for testing, the official test results will be negative, the employee will be subject to no disciplinary action, and the Town will pay for the second test. If the results of the second test are positive, the employee will be subject to disciplinary action as explained in the previous sections, and the employee will be required to pay for the second test.

Employees may receive copies of the official testing forms.

Employees will be paid for on-duty time while traveling to and from a testing site and while the test is being administered for any random testing, post-accident testing, follow-up testing or reasonable testing required in accordance with this policy.

B. Employee Responsibilities

Under the Federal Drug-Free Work Place Act, within five (5) days of a conviction, an employee is required to notify his/her department head of any criminal drug violations that he/she committed in the workplace.

Employees must make sure the Human Resources Department has the employee's current home address and telephone number on file.

It is the employee's responsibility to notify his/her supervisor immediately in the event of ANY accident in which he/she was driving a Town-owned commercial motor vehicle, or during which the employee was conducting Town business.

Employees are required to sign a statement certifying that they have received a copy of this policy.

Any employee with a question regarding alcohol and drug testing regulations, the Town's policy, or employees' responsibilities should contact the Human Resources Department immediately.

XIV. QUESTIONS AND ASSISTANCE

Questions about the policy or persons seeking assistance with drug and/or alcohol problems should contact his/her supervisor or Department Head and/or the Human Resources Department at 508-833-8061.

TOWN OF SANDWICH
EMPLOYEE ACKNOWLEDGMENT
DRUG AND ALCOHOL USE & TESTING POLICY

I hereby certify that the Drug and Alcohol Testing Policy for employees in positions requiring a commercial driver's license and which are defined as safety-sensitive has been provided to me and I am aware that I may direct any questions or concerns to the Human Resources Department, 130 Main Street, Sandwich, MA and by telephone at 508-833-8061.

Employee

Date

Witness

Date

This acknowledgment will be maintained in the Employee's Personnel file or other file as required.