

**SECTION 12
DRUG FREE WORKPLACE**

The Town of Blacksburg is committed to providing safe, dependable, and economical services to the citizens of Blacksburg. The Town of Blacksburg is also committed to providing a healthy and satisfying work environment that is free of drugs and alcohol. Drugs and alcohol have no place in the Town's work environment. An employee who is unfit for duty due to drug or alcohol usage jeopardizes these commitments. Safety and productivity become compromised. Drug and/or alcohol usage can result in workplace accidents, damage to property and equipment, threats to public safety, and poor workplace decisions. This policy has been created to protect both the public and the employees of the Town of Blacksburg. Adherence to this policy is a condition of employment for all employees.

12.1 POLICY STATEMENT

It is the policy of the Town of Blacksburg that the unlawful manufacture, distribution, possession, purchase, sale, or use of a controlled substance is prohibited in the workplace. The workplace consists of any Town-owned, controlled or leased equipment, property or vehicle, or the site at which Town work is performed. This policy also applies to off-site lunch periods or breaks when an employee is scheduled to return to work and any time that an employee is acting in his/her capacity as a Town employee.

Any employee, contract employee, officer, or official who is found to have violated this prohibition as the result of a drug or alcohol test or other act of possession or distribution shall be subject to disciplinary action, including dismissal from employment and/or shall be required to satisfactorily participate in a drug abuse assistance or rehabilitation program, based on the severity of the violation.

The Federal Transit Administration and the Federal Highway Administration require specific drug and alcohol testing policies and procedures. These policies and procedures are reflected in departmental policies of the Public Works and Transit Departments.

12.2 RESPONSIBILITIES

1. Employees
 - A. An employee shall notify his/her supervisor in writing within five calendar days if convicted of violating:
 - (1) a criminal drug law or ordinance, based on conduct occurring in or away from the workplace;
 - or
 - (2) an alcohol law or ordinance violation(s) occurring in the workplace, or a law or ordinance that governs driving while intoxicated, based on conduct occurring in or away from the workplace.

(Please see Section 6.20 and Section 8.8 for additional reporting requirements.)

- B. Before beginning a work shift, an employee must report to his or her supervisor the use of prescription or over-the-counter drugs that may cause impairment. It is the employee's responsibility to determine from the physician, practitioner, or pharmacist whether or not job performance would be impaired.
- C. Employees shall report any conduct of other employees that appear in violation of this policy to their supervisors.
- D. Failure to report, as required, shall be considered grounds for disciplinary action, including dismissal from employment.

2. Management

- A. Each supervisor has the responsibility to immediately report violations, as well as any reasonable evidence to suspect that an employee is manufacturing, distributing, dispensing, in the possession of or is under the influence of alcohol or a controlled substance to the Human Resources Manager. The Department Head and the Human Resources Manager shall work in concert with the Town Attorney to investigate the violation, obtain the facts, and advise and recommend appropriate action to the Town Manager.
- B. The Town Manager shall notify any granting Federal agency within five days after receiving notice from an employee or otherwise receiving actual notice of a criminal law conviction against an employee for conduct occurring within the workplace and in connection with that Federal agency's grant.
- C. Department Heads and supervisors shall assist in ensuring that the workplace is free of controlled substances and that their departments meet the requirements of the Drug-Free Workplace Act.
- D. A copy of this policy shall be posted on the main bulletin board in each Town department.

12.3 SCREENING

In an effort to identify and eliminate controlled substance/alcohol abuse, which affects an employee's ability to safely and competently perform his/her duties, urinalysis/blood tests and

breathalyzers may be conducted. Samples for urinalysis and blood tests shall be split so that additional testing (addressed in more detail at part 4 of this Section) may be performed.

A drug/alcohol test may be required by all candidates selected to fill Pay Plan positions and candidates selected to fill Wage positions which are classified as high risk positions, public safety positions, or jobs requiring the regular and routine operation of Town vehicles or other motorized equipment. The test will be completed after a conditional offer of employment has been made and prior to the employee reporting for work with the Town. The candidate must also provide consent for the Town to receive test results. Unpaid interns who will be required to operate a Town vehicle or other motorized equipment will also be subject to this screening policy. Wage positions which are classified as high risk positions include: Lifeguards, Recreation Assistants/Front Desk Attendants/Site Supervisors, Camp Counselors, and Media Specialists.

1. Employee Screening

A. Screening of existing employees may take place under any of the following conditions. The employee's supervisor shall transport the employee to the selected testing facility after notifying the Human Resources Manager. If the Human Resources Manager is unavailable, the Department Head must clear the screening with the Town Attorney or the Town Manager.

(1) Reasonable Suspicion: An employee will be required to submit to a urine, blood or breath test for chemical analysis to determine the presence, if any, of drug(s) or alcohol in the employee's system when the employee's supervisor has a reasonable suspicion that the employee is under the influence of drug(s) or alcohol. "Reasonable suspicion" is defined as the presence or occurrence of specific objective facts or events and reasonable inferences drawn from those facts or events in light of experience, that the employee is, at the time of the suspicion, under the influence of drug(s) or alcohol. Such behavior must be witnessed by at least two supervisors/managers.

Examples of reasonable suspicion include, but are not limited to, the following:

- Physical signs and symptoms consistent with prohibited substance use or alcohol use;
- Evidence of illegal alcohol or drug use, possession, sale, or delivery;
- Altercations (either physical or verbal) with others, or erratic or violent behavior;
- Other unusual acts or unusual behavior that may suggest drug or alcohol use.

(2) Post-Accident: Following any on-duty accident that causes either property damage or personal injury, and where at least two supervisors have reasonable suspicion to believe that the involved employee is under the influence of, has been using, or is in possession of alcohol or controlled substances in violation of this policy.

- B. Any employee who is relieved of duty due to a positive test for alcohol/drug use shall be immediately disqualified from driving and, if necessary, taken off the road. Every attempt shall be made to locate a family member or friend to transport the employee. If this is unsuccessful, a supervisor may drive the employee home or a taxi may be called at the Town's expense.
- C. Nothing herein will be deemed to prohibit management from temporarily reassigning an employee, or from placing the employee in an approved leave status, pending the results of a drug test when such action is deemed to be in the best interest of the Town. Such action, however, will not be considered disciplinary in nature, nor will any presumption of guilt arise from this action. However, when the results of the confirmatory test are negative, an employee required to take leave pending the results of a drug test will have his or her leave reinstated or will be compensated for hours spent in a leave without pay status.

2. Discipline

- A. Employees performing work while impaired by alcohol and/or drugs are subject to disciplinary action, up to and including dismissal.

Disciplinary action for alcohol violations shall be determined by the levels in the system as listed below:

- < 0.02 No disciplinary action
- ≥ 0.02 but < 0.04 Remainder of day suspension & EAP referral. A second offense within 24 months will result in a suspension of five days & EAP referral. Employees testing at this level must retest at a level of 0.00 prior to returning to work.
- ≥ 0.04 Termination of employment & EAP information

A positive urine or other drug test is sufficient to support a finding of "use" for employees for the substances listed below. Disciplinary action for drug use shall be determined by the department head, in consultation with the

Town Manager and the Town Attorney, based on (i) the potential threat or danger created by the drug use, (ii) the nature of the work performed or the position held, (iii) the employee's work history and (iv) the best interests of the Town. An employee with a positive drug test shall have the burden of demonstrating why termination of the employee's employment is not in the best interests of the Town.

Marijuana metabolites, including all hemp products

Cocaine and metabolites

Opiates

- Codeine
- Morphine
- 6-AM (Heroin)

Phencyclidine (PCP)

Amphetamines and metabolites

- Amphetamine
- Methamphetamine
- MDMA
- MDA
- MDEA

*These substances are subject to change by the Department of Health and Human Service as advances in technology or other considerations warrant identification of these substances.

3. Refusal To Test

Applicants refusing to participate or complete a drug or alcohol screening test required by this policy will not be hired.

The following actions constitute a refusal to be tested by an applicant:

- Once the test is underway, failure to remain at the site and provide a specimen is a test refusal with consequences
- Failure to appear is not considered a refusal;
- Failure to remain at the site prior to commencement of the test is not considered a refusal;
- Failure to provide a specimen before the test commences is not considered a refusal.

Employees refusing to participate in or complete a drug or alcohol screening test required by this policy will be terminated.

The following actions constitute a refusal to be tested by an existing employee:

- Failure to remain at the testing site until the testing process is complete;

- Failure to provide a urine or breath specimen for any drug or alcohol test required by this policy;
- Tampering with, adulterating, or substituting a specimen;
- Failure to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- Failure or decline to take a second test as directed;
- Failure to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process;
- Failure to cooperate with any part of the testing process (e.g., refusal to empty pockets when so directed by the collector, behaving in a confrontational way that disrupts the collection process) or verbal or written refusal to provide a required urine specimen;
- Providing false information in connection with a drug test, or if verified to have falsified test results through adulteration or substitution of a urine specimen;
- Failure or refusal to sign the applicable testing or consent forms as requested by the Town and/or the collector;
- Failure to remain at the scene of an accident, without a justifiable explanation, prior to the determination if a drug and/or alcohol test is necessary.

4. Post-Testing Procedures

A. Employee Requested Testing

Any employee who questions the results of a required drug test under this policy may request that the split sample be tested. This test must be conducted at a different Department of Health & Human Services certified laboratory. The test will be conducted on the split sample that was provided by the employee at the same time as the original sample. The employee pays all costs for such testing unless the result of the split sample test invalidates the result of the original test. The employee's request for a split sample test must be made to the Medical Review Officer within seventy-two hours of notice of the original sample verified test result. Requests after seventy-two hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee.

5. Information Disclosure

An applicant's or employee's executed consent form, test results, treatment information, and any other documentation generated as a result of this policy will be confidentially maintained by the Human Resources Office. Such information will only be released upon written authorization of the applicant or employee involved, to Town personnel on a need-to-know basis, or as otherwise required or permitted by law.