

**TOWN OF WILBRAHAM  
DRUG AND ALCOHOL TESTING POLICY<sup>1</sup>**

**A. Purpose and Scope.**

Employees of the Town of Wilbraham (the “Town”) must remain drug and alcohol free in order to accomplish their respective job duties. Drug and alcohol abuse impairs the health, well-being and productivity of the individual, the Town of Wilbraham, and its employees. Consequently, the use of illegal drugs, or abuse of alcohol involving your work, cannot and will not be tolerated.

The purpose of this policy is to outline the responsibilities of Town employees, department heads, supervisors and managers with regard to drug and alcohol use in the workplace, the testing of Town employees for drug and alcohol use, and the testing of Town employees in safety-sensitive positions for drug and alcohol use in accordance with U.S. Department of Transportation regulations, issued under the Omnibus Transportation Employee Testing Act of 1991, and in accordance with the Drug-Free Workplace Act of 1988.

As set forth in greater detail below, Town employees may be subject to alcohol and drug testing. In the case of a drug test, such test shall be conducted in accordance with the United States Health and Human Services Department procedures including, confirmatory test, split sample, medical officer review and appeal, and allowing the employee to elect a separate confirmatory test at his/her expense.

**B. General Policy Regarding Drugs and Alcohol in the Workplace.**

1. The use of drugs and misuse of legal drugs, including alcohol, is a source of danger in the workplace and a threat to the Town’s goal of maintaining a productive and safe work environment.
  - a. In accordance with the Federal Drug Free Workplace Act, the use, sale or possession of narcotics, illegal drugs or controlled substances while on the job or on Town property is prohibited and an offense warranting disciplinary action up to and including termination of employment.
  - b. Similarly, Town employees who are under the influence of narcotics, illegal drugs or controlled substances while on the job may be subject to disciplinary action up to and including termination of employment.
  - c. Town employees who are under the influence of alcohol, either on the job or when reporting for work, or who possess or consume alcohol during work hours, have the potential for interfering with their own as well as their co-workers' safe and efficient job performance. Such conditions will

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<sup>1</sup> Should there be a conflict between this Drug and Alcohol Testing Policy and any applicable collective bargaining agreement, the collective bargaining agreement shall prevail, subject to federal and state law.

be the basis for disciplinary action up to and including termination of employment.

- d. Town employees are expected to follow any directions of their health care provider concerning prescription medications, and must immediately notify their supervisor if any prescription drug is likely to have an impact on job performance. In addition, notification must be given at the time of any testing or screening as to any drugs or medicine being taken.
- e. Any employee, while on Town property or during the employee's work shift, including without limitation all breaks and meal periods, who consumes, sells or uses, or is found to have in his or her personal possession, in his or her locker or desk or other such repository, alcohol or drugs, which are not medically authorized, or is found to have used or to be using such alcohol or drugs, may be placed on administrative leave immediately pending further investigation. If use, sale, or possession is substantiated, disciplinary action, up to and including termination will be imposed.
- f. The Town is committed to the treatment and rehabilitation of employees with alcohol and controlled substance misuse problems, and encourages employees to come forward voluntarily and seek assistance for those problems prior to and after implementation of the testing program.
- g. If at any time a Town employee volunteers to enter a chemical dependency program, he/she will enter without fear of disciplinary action being taken against him/her as a direct result of seeking treatment, where such a program is designed to provide care and treatment to employees who are in need of rehabilitation. Details concerning the treatment any employee receives at this program shall remain confidential and shall not be released to the public.

**C. Prohibited Conduct.**

- 1. The Town prohibits the following conduct by Town employees:
  - a. The possession, distribution, dispensation, transfer, manufacture, use, purchase/attempt to purchase, or sale of any illegal narcotics, drugs, or controlled substances, including but not limited to marijuana;
  - b. The possession or use of alcohol while on duty, or while using Town vehicles or facilities, whether on or off Town premises;
  - c. Using, or reporting to work impaired by, or under the influence of, alcohol, or any prescription or over-the-counter drug, including marijuana that is legally prescribed for medicinal purposes under Massachusetts state law;
  - d. Driving under the influence of alcohol or drugs; and

- e. Performing duties or using Town equipment or vehicles while impaired by, or under the influence of, alcohol or drugs, including the use of medical marijuana;
2. Any employee who is arraigned for a drug-related offense or for driving while intoxicated must notify their respective Department Head immediately, regardless of whether the conduct occurred while on duty.

**D. Policy Regarding Drug and Alcohol Testing.**

1. CDL Holders

- a. It is the policy of the Town to comply fully with the regulations mandating pre-employment, random, reasonable suspicion and post-accident drug and alcohol testing issued by the U.S. Department of Transportation (“DOT”). This policy contains the requirements of the regulations, except where indicated that a particular provision is based on the authority of the Town.
- b. Under the regulations, performance of DOT safety-sensitive functions is prohibited by employees having a breath alcohol concentration of 0.04 percent or greater as indicated by an alcohol breath test; by employees using alcohol or within four hours after using alcohol; and by employees in the possession of any medication containing alcohol unless the package seal is unbroken. In addition, the Town prohibits the performance of any safety-sensitive function by an employee with a breath alcohol concentration of .02 percent or greater.
- c. Use of drugs by safety-sensitive drivers is prohibited.
- d. A driver is performing a safety-sensitive function at the following times:
  - i. All time on Town property, public property, or other property waiting to be dispatched or drive;
  - ii. All time inspecting, servicing or condition any commercial motor vehicle at any time;
  - iii. All driving time;
  - iv. All time other than driving time in or upon any commercial motor vehicle;
  - v. 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;

- vi. All time spent performing driver requirements relating to accidents;
- vii. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

2. Non-CDL Holders

It is the policy of the Town to test for drugs and alcohol for:

- a. applicants for designated positions that do not require a Commercial Driver's License for drugs and alcohol in accordance with this policy;
- b. employees where probable cause exists for such testing for drug and alcohol use.

**E. Procedures.**

1. Types of Tests for CDL Applicants and CDL Holding Employees

To the extent practicable, all tests will be conducted during employees' normally scheduled work hours. The following tests are required:

- a. Pre-employment (Pre-use) -- All applicants for employment in positions requiring a Commercial Drivers License (pre-employment), or candidates for transfer or promotion to such a position (pre-use), are subject to screening for use of controlled substances.
- b. Post-Accident -- conducted after accidents on drivers in Town vehicles whose performance could have contributed to the accident, as determined by a citation for a moving traffic violation, and for all fatal accidents even if the driver is not cited for a moving traffic violation. An accident is defined as an incident involving a commercial motor vehicle in which there is either a fatality, an injury treated away from the scene, or a vehicle being required to be towed from the scene. Alcohol tests should be conducted within 2 hours, but in no case more than 8 hours after the accident. Employees must refrain from all alcohol use until the test is complete. Post-accident drug tests must be conducted within 32 hours.
- c. Reasonable suspicion -- conducted when a trained supervisor or manager observes behavior or appearance that is characteristic of alcohol or drug use. If a driver's behavior or appearance suggests alcohol or drug use, a test must be conducted. If a test cannot be administered, the driver must be removed from performing safety-sensitive duties for at least 24 hours and may be placed on administrative leave. Testing for alcohol abuse must be based upon suspicion which arises just before, during or just after the time when the employee is performing safety-sensitive duties. Testing for substance abuse may occur at any time upon suspicion.

- d. Random -- conducted on a random, unannounced basis just before, during or after performance of safety-sensitive functions for alcohol or at any time for drugs for CDL drivers. Each year, the number of random alcohol tests conducted by the Town must equal at least 10% of all the safety-sensitive drivers. Random drug tests conducted by the Town must equal at least 50% of all safety-sensitive drivers.
- e. Return to Duty and Follow-up -- conducted when an individual who has violated the alcohol or drug standards returns to performing safety-sensitive duties. Follow-up tests are unannounced and at least six (6) tests must be conducted in the first twelve (12) months after a driver returns to duty. Follow-up testing may be extended for up to sixty (60) months following the return to duty.

2. Types of Tests for Non-CDL Applicants and Non-CDL Employees

- a. Pre-employment -- With their consent, all applicants for employment in designated positions that do not require a Commercial Drivers License (pre-employment), are subject to screening for use of controlled substances.
- b. Probable Cause -- conducted when a trained supervisor or manager observes behavior or appearance that gives probable cause of alcohol or drug use. If facts and circumstances warrant a reasonable belief that a non-CDL employee more probably than not has used alcohol or drugs, a test must be conducted.

3. Conducting Tests

Tests will be conducted in accordance with DOT and U.S. Department of Health and Human Services rules and procedures, as more fully set out below. An employee who tests positive may be subject to discipline up to and including termination.

a. Alcohol

Breath testing shall be conducted 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 0.01 alcohol concentration is considered a "negative" test. If the alcohol concentration is 0.01 or greater, a second, confirmation test must be conducted.

b. Drugs

- i. Drug testing is conducted by analyzing an employee's urine specimen, and must be conducted through a U.S. Department of Health and Human Services certified facility. Specimen collection procedures and chain of custody requirements ensure that the

specimen's security, proper identification and integrity are not compromised.

- ii. A split specimen shall be obtained as follows. 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 employee has 72 hours to request that the split specimen be sent to another DHHS certified laboratory for analysis.
- iii. All urine specimens are analyzed for the following drugs:
  - Marijuana (THC metabolite)
  - Cocaine
  - Amphetamines
  - Opiates (including heroin)
  - Phencyclidine (PCP)
- iv. 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.
- v. 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 employee 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 MRO determines that the drug use is legitimate, the test will be reported to the Town as a negative result. (Employees, however, are required to notify their Department Head of any legal use of prescription drugs that may affect the employee's ability to safely and effectively perform his duties.)

4. Refusal to Submit to an Alcohol or Drug Test and the Consequences.

Refuse to submit (to an alcohol or controlled substances test) means that an employee: (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 obstructs the testing process.

Pursuant to the Town's authority, employees who refuse to submit to a test will be subject to discipline, up to and including discharge.

5. Consequences of Alcohol/Drug Misuse

- a. Employees who have any alcohol concentration (defined as 0.02 or greater) who tested just before, during or just after performing safety-sensitive functions shall be removed from performing such duties for 24 hours. All other employees shall be removed from their shift for the day.

Disciplinary action may be imposed upon an employee whose alcohol test reveals any alcohol concentration (between 0.02 and 0.04).

- b. Employees who engage in prohibited alcohol or drug conduct (that is, who test positive for alcohol use greater than 0.04 or drug use) shall be immediately removed from safety-sensitive functions. All other employees shall be removed from their shift.

Employees who are serving a probationary period will be subject to termination. Non-probationary employees will be subject to discipline, up to and including termination from employment. Non-probationary employees may be offered an opportunity for rehabilitation in accordance with Section E., subsection 5.c. below. Non-probationary employees who are not terminated will be required to comply with Section E., subsection 5.c. below. Failure of a non-probationary employee to complete the requirements of Section E., subsection 5.c. may result in termination from employment.

- c. Employees who engage in prohibited alcohol or drug conduct who are not subject to termination from employment and are permitted to continue employment with the Town of Wilbraham shall be evaluated by a substance abuse professional (SAP) and comply with any treatment recommendations to assist them with an alcohol or drug problem. The payment for any recommended treatment will be strictly at the expense of the employee (or his/her health insurance program, if applicable). Employees will be placed on non-occupational sick leave or leave without pay status during the treatment period, whichever is appropriate.
- d. Employees who have been evaluated by a substance abuse professional, who comply with any recommended treatment, who have taken a return to duty test with a result less than 0.02 and are drug-free, and who are then subject to unannounced follow-up tests at the employees' expense, may return to work.

- e. Pursuant to the Town's authority, employees who have returned to work under these conditions and who subsequently test positive for alcohol or drugs in accordance with this policy during the next five years will be subject to being terminated immediately.

Once an employee successfully completes rehabilitation, he/she shall be returned to his/her regular duty assignment or an equivalent assignment. Employee assignments during treatment shall be based on each individual's circumstances. As a condition of employment, the employee must comply with prescribed follow-up care.

- f. Employees in non-safety-sensitive positions who fail alcohol or drug tests under this Policy may be placed on administrative leave and shall be subject to discipline, including termination.

**F. Information/Training.**

1. All current and new Town employees will receive written information about the testing requirements and how and where they may receive assistance for alcohol or drug misuse. All Town employees shall receive a copy of this Policy and must sign the Confirmation of Receipt (Attachment 1).
2. This policy will be posted on all employee bulletin boards and will be available to all Town employees online.
3. 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- and post-employment drug screening and 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.
4. All recruitment advertising will include the statement "Drug/alcohol screening is a condition of employment" at the bottom of the advertisement/posting with the EEO statement.
5. All final candidates for employment in positions within the Town will be given a copy of this policy, and be given the opportunity to read the policy in its entirety.

**G. Record Keeping.**

1. The Town shall keep detailed records of its alcohol and drug prevention program.
2. Alcohol and drug testing records are confidential. Test results and other confidential information may only be released to the Town, the substance abuse professional, the MRO, and any arbitrator of a grievance. Any other release of

this information may only be made with the employee's consent, or in response to a court order or subpoena.

**H. Pre-employment References.**

1. The Town shall obtain and review the following information from each employer that the prospective driver worked for, in a safety-sensitive position, during the previous two years: information about a test in which the employee's blood alcohol was 0.04 or greater; information about a positive drug test; and information about any refusal to participate in the alcohol and drug testing program.
2. The prospective employee must provide the former employer with a written release allowing the release of this information or he/she will not be hired.
3. If the previous employer indicates that a positive result was received, or that the employee refused to participate when selected for an alcohol or drug test, the applicant may not be appointed unless he/she has already consulted with a substance abuse professional, already received recommended treatment, and subsequently tested negative in a return to duty test for the former employer, and is otherwise qualified.
4. The Town shall provide the same information to subsequent employers of current Town employees when provided with a written release by the employee.

**J. Questions.**

Any employee with a question regarding this Policy should contact his or her supervisor.

**K. Rules of Procedure.**

The Town Administrator may issue rules of procedure to implement and carry out this Policy and may provide interpretation of this Policy.

**L. Adoption by Board of Selectmen.**

This Policy was adopted by the Board of Selectmen on November 16, 2020.

**ATTACHMENT A**

**Employee Confirmation of Receipt**

I hereby certify that I was given a copy of the Town of Wilbraham Drug and Alcohol Testing Policy, and have been given an opportunity to ask questions of my supervisor about the content of the policy.

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Employee's Name

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Department

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Employee's Signature

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Date

**ATTACHMENT B**

**Pre-employment Consent to Drug Screening**

1. I, \_\_\_\_\_, understand that the medical  
Name  
examination that I am about to receive includes:
- A blood test for the presence of drugs
- A urine test for the presence of drugs
2. I hereby give my consent to \_\_\_\_\_ (an HHS certified facility) to perform these tests. I understand that if I decline to sign this consent, and thereby decline to submit a sample for the test, the test will not be completed. The Town Administrator will be notified and my application for employment may be rejected.
3. I further consent to the release of the results of the tests to the Town of Wilbraham.
4. I have taken the following drugs or substances within the last 96 hours:

Identify

Name & Amount

Prescribing Physician

Sleeping Pills

Diet Pills

Pain Relief Pills

Cold Medicines

Anti-malarial

Other

CONSENT GIVEN

CONSENT REFUSED

Specimen Number: \_\_\_\_\_

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Witness: \_\_\_\_\_

**ATTACHMENT C**  
**Drug and Alcohol Screening - Employee Consent**

1. I, \_\_\_\_\_, understand that  
Employee Name

the medical examination that I am about to receive includes:

- A blood test for the presence of drugs and/or alcohol
- An evidential breath test for the presence of alcohol
- A urine test for the presence of drugs and/or alcohol

2. I hereby give my consent to \_\_\_\_\_ (an HHS certified facility) to perform these tests. I understand that if I decline to sign this consent, and thereby decline to submit a sample for the test, I may be subject to disciplinary action, up to and including termination from the Town.

3. I further consent to the release of the results of the tests to the Town of Wilbraham.

4. I have taken the following drugs or substances within the last 96 hours:

<u>Identify</u>	<u>Name &amp; Amount</u>	<u>Prescribing Physician</u>
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Sleeping Pills

Diet Pills

Pain Relief Pills

Cold Medicines

Anti-malarial

Other

CONSENT GIVEN

CONSENT REFUSED

Specimen Number: \_\_\_\_\_

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Witness: \_\_\_\_\_