



## TOWN OF NORWOOD PERSONNEL BOARD

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### #P-404 – ALCOHOL AND DRUG POLICY

#### **1. Purpose and Scope**

- 1.1 The Town of Norwood has a strong commitment to its employees to provide a safe workplace and to establish programs promoting high standards of employee performance and safety. Consistent with the spirit and intent of this commitment, the Town of Norwood has established this policy regarding illegal drug and alcohol use or abuse. Quite simply, our goal will continue to be one of establishing and maintaining a work environment that is free from the effects of alcohol and illegal drug use in the work place.
- 1.2 Employees of the Town of Norwood are representatives of the Town and are expected to represent it in a responsible and creditable fashion.

#### **2. Applicability**

- 2.1 This policy applies to all full and part-time compensated positions, excluding elected officials and employees of the School Department. Positions covered by Civil Service Law or a collective bargaining agreement are subject only to those portions of the policy which are not specifically regulated by law or agreement.
- 2.2 To the extent permitted by law, individual employment agreements (new, updated or extensions) entered into after the effective date of this policy, with employees whose positions are subject to this policy, must follow all of the provisions of this policy.
- 2.3 This policy is intended to be consistent with any and all applicable laws. If any part of this policy is inconsistent with the law, that part of the policy shall be considered invalid, and the remaining provisions of the policy shall be construed so as to be consistent with the law.

#### **3. Definitions**

- 3.1 Please consult the Personnel Definitions Document (#D-100) regarding Appointing Authority, Regular Full Time Employee, Regular Part Time Employee, Intermittent Employee, Seasonal Employee, Intern, Volunteer, Summer Hire, Contingent Worker, Temporary Employee and any other applicable terms utilized in this document.

#### **4. Eligibility**

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## 5. Policy

### 5.1 General

- 5.1.a The illegal use, sale or possession of narcotics, drugs or controlled substances while on the job or on Town property is an offense warranting discharge. Any illegal substances will be turned over to the appropriate law enforcement agency.
- 5.1.b Employees who are under the influence of alcohol or illegal narcotics, illegal drugs or controlled substances, 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 may be proper cause for administrative action up to and including termination of employment.
- 5.1.c Off-the-job illegal drug activity that could adversely affect an employee's job performance or which would jeopardize the safety of other employees, the public, or Town property or equipment is proper cause for administrative or disciplinary action up to and including termination of employment. In deciding what action to take, Management will take into consideration the nature of the conduct, the employee's present job assignment, and the employee's record with the Town and other factors relative to the impact of the employee's action upon the conduct of Town business, such as laws and regulations that may apply to the position such as the Omnibus Transportation Act of 1991 and other federal and state legislation and regulations.
- 5.1.d Some of the drugs which are illegal under federal, state or local laws include, among others, marijuana, cocaine, hallucinogens and/or depressants and many others listed in Chapter 94C of the Massachusetts General Laws not prescribed for current personal treatment by a licensed physician.
- 5.1.e While it is anticipated that employees will follow any directions of their health care provider and guidelines for use concerning prescription medications, employees must immediately notify human resources or their manager or department head if any prescription drug is likely to have an impact on job performance from a workplace safety standpoint, and should more generally notify these persons if the prescription medication will impact job performance generally. Please see the Reasonable Accommodation section in the Town's ADA Policy (#P-303). In addition, if an employee is in a position that is subject to testing (see below), notification must be given at the time of any testing or screening as to any drugs or medicines being taken.
- 5.1.f Any employee, while on Town property or during that employee's work shift, including without limitation all breaks and meal periods, who consumes or uses or is found to have in his or her possession, in his or her locker, desk, Town vehicle or other such repository, alcohol or non-prescribed drugs which the employee is not medically authorized to have or is found to have used or to be using alcohol or illegal drugs, will be immediately removed from the workplace and placed on leave pending further investigation. If use or possession is substantiated, disciplinary action, up to and including discharge may be imposed. The Town reserves the right in its sole discretion, to require employees to participate in and complete a program

selected by the Town as a condition of continued employment. This general policy explains and clarifies the Town of Norwood's policy on drug and alcohol use. Employees in need are strongly encouraged seek assistance for any personal drug addition or alcohol dependency. Employees who voluntarily seek such professional help before the Town determines that they have violated this policy may do so without being subject to disciplinary action.

5.2 Positions covered by the provisions of the Omnibus Transportation Employee Testing Act of 1991 are subject to testing for drugs and alcohol that fall within the scope of the act for safety/sensitive positions requiring a CDL.

5.2.a It is the policy of the Town of Norwood to comply fully with the Rules issued by the U.S. Department of Transportation under the 1991 Omnibus Transportation Employee Testing Act dealing with limitations on alcohol and drug use by transportation workers and the reporting/recordkeeping requirements relative to such testing. The Rules found at 49 C.F.R. section 382.100 et. seq. apply to all interstate and intrastate truck and motor coach operators, including, but not limited to school bus drivers and all Town employees with commercial drivers licenses. The following conduct is prohibited:

5.2.a.i Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions with breath/blood alcohol content of 0.02 percent (or higher).

5.2.a.ii Use of alcohol within four (4) hours prior to performing a safety/sensitive function like driving.

5.2.a.iii Use of alcohol on the job.

5.2.a.iv Use of alcohol during the eight (8) hours following an accident.

5.2.a.v Possession of any medication or food containing alcohol while driving a vehicle.

5.2.a.vi Refusal to take a required test.

Use of controlled substances on or off duty unless a doctor has prescribed the controlled substance and the doctor has informed the employee that the substance does not adversely affect the employee's ability to operate a vehicle safely.

5.3 Information Training

5.3.a All current and new employees who are covered by this policy will receive written information about testing requirements and how and where they may receive assistance for alcohol or drug misuse.

5.3.b Employees covered by this policy who fail to fully comply with any recommended treatment may be disciplined up to and including termination.

5.4 Record Keeping

5.4.a The Town is required to keep detailed records of its alcohol and drug misuse prevention program. Original records will be sent to the Town Manager's office, with copies to be sent to the employee in question, as well as the employee's Department Head.

5.4.b 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, the MRO, and any arbitrator of a grievance filed in accordance with this policy. Any other release of this information may only be made with the driver's consent.

## 5.5 Pre-Employment References

5.5.a The Town must 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.

5.5.b 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.

5.5.c If the previous employer indicates that a positive result was received, or that the employee refused to participate when selected for alcohol or drug test, the applicant will not be appointed.

5.6 Department Heads are required to act consistent with this policy and ensure this policy is implemented consistently within their department.

5.7 In the event of an error or violation of this policy, either intentional or unintentional, Human Resources must be immediately informed. Human Resources will identify and make the proper correction(s). A violation of this policy, whether intentional or unintentional, will not change this policy, nor set a precedent in any future application of this policy.

## 6. Provisions

Positions covered by the provisions of the Omnibus Transportation Employee Testing Act of 1991 are subject to testing for drugs and alcohol that fall within the scope of the act for safety/sensitive positions requiring a CDL.

6.1 **Types of Tests.** The following tests are required:

6.1.a Pre-Placement Testing for Controlled Substances and Alcohol. All applicants for employment in covered positions, or candidates for transfer or promotion to such positions, as well as those covered employees returning from layoff, are subject to screening for use of alcohol or controlled substances. Individuals who test positive will either not be offered a position with the Town or will be subject to disciplinary action depending whether or not the test was for original hire or transfer/promotional purposes.

6.1.b Post-Accident. All covered employees shall be tested after accidents involving safety sensitive operations where there has been a citation for a moving traffic violation and either bodily injury to any person requiring immediate medical treatment away from the scene of the accident or disabling damage to one of more motor vehicles requiring them to be towed from the scene of the accident; or if there is a fatality, even if the driver is not cited for a moving traffic violation. Tests

for alcohol use shall be conducted within two (2) hours, but in no case more than eight (8) hours of the accident, while tests for controlled substances shall be conducted within 32 hours of the accident. Employees must refrain from all alcohol and controlled substance use until the test is complete. Employees are obligated to cooperate in such testing or will be deemed to have refused. It is the employee's responsibility to make themselves available for testing. Generally, the employees will be accompanied to/from the testing site by a Town of Norwood supervisor, other management personnel or an HR employee.

- 6.1.c Reasonable Suspicion. An employee shall be tested when a trained supervisor or manager observes behavior, speech, appearance or odor that leads to a reasonable suspicion that the employee has violated Number 1-7 of Section 5.2 above or has been or is using controlled substances without a doctor's prescription. In the case of alcohol use, the observation shall be made during, just preceding or just after the workday. No such limitations are placed on observations for impermissible use of controlled substances. Tests for alcohol use shall be conducted within two (2) hours, but in no case more than eight (8) hours after the observation is made. If a test cannot be administered, the driver must be removed from performing safety sensitive duties for at least 24 hours.
- 6.1.d Random. Employees shall be tested for the use of alcohol and controlled substances on a random, unannounced basis just before, during or after performance of safety sensitive functions for alcohol or at any time for controlled substances. Each year, the number of random alcohol tests conducted by the Town must equal at least 50% of all covered employees. Random drug tests conducted by the Town must equal at least 50% of all covered employees.
- 6.1.e Return to Duty and Follow-Up. An employee who has violated the prohibited alcohol or drug standards must be evaluated by a substance abuse professional (please see Section 6.3 for more information) and shall be tested for alcohol and/or drug use prior to his/her return 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 an employee returns to duty. The Town may extend the follow-up testing for up to sixty (60) months following an employee's return to duty.

## 6.2 Conducting Tests

- 6.2.a 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 confirmation test must be conducted. Refusal of an employee to complete and sign the breath alcohol testing form shall be deemed to be a refusal to test. In addition, blood alcohol testing can be used in reasonable suspicion and post accident testing where an evidentiary breath testing device is not available to where an employee is not capable of producing adequate breath.
- 6.2.b Controlled Substances. Controlled substance testing is conducted by analyzing a driver's urine specimen, and must be conducted through the U.S. Department of Health and Human Services certified facility. Specimen collection procedures and

chain of custody requirements ensure that specimen's security, proper identification and integrity are not compromised. 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. Initially, only the primary specimen is opened and used for 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. Should the second specimen again test positive the employee shall pay for the test and should the specimen test negative then the Town shall pay for the test. 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. Sophisticated testing requirements ensure that over-the-counter medications or preparations are not reported as positive results. 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 for 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.

6.2.c *Refusal to Participate/Tampering.* Any refusal to participate in any of the types of alcohol and/or drug tests authorized in this policy will be treated as indicative of a positive result. If there is any evidence that an employee engaged in sample tampering such conduct shall be treated as a refusal to participate in testing for purposes of imposing discipline. Further, any employee who participates in any way in an attempt to tamper with any sample shall be subject to discipline up to and including termination for just cause.

### 6.3 **Consequence of Alcohol/Drug Misuses**

6.3.a Employees covered by this policy who have any alcohol concentration (defined as 0.02 or greater) when tested just before, during or just after performing safety sensitive functions must be removed from performing such duties for 24 hours, and will be sent home without pay and subject to disciplinary action.

6.3.b Employees covered by this policy who engage in prohibited alcohol or drug conduct (that is, who test positive for alcohol or drug use) must be immediately removed from safety sensitive functions, must be evaluated by a substance abuse professional and must undergo a treatment program as defined by the professional.

6.3.c Employees covered by this policy, who wish to continue employment with the Town of Norwood, must be evaluated by a substance abuse professional and comply with any treatment recommendations to assist them with an alcohol or drug problem. Employees may be placed on a non-occupational sick leave or leave without pay status during the treatment period at the sole discretion of the Town. Refer to Section 11 of this policy.

