

# | Agenda Item | cover sheet

for consideration by the Apex Town Council

Item Type: CONSENT AGENDA

Meeting Date: February 9, 2021

## Item Details

Presenter(s): Mary Beth Manville, Human Resources Director

Department(s): Human Resources

### Requested Motion

Motion to approve revisions to the Town's Drug & Alcohol Testing Policy.

### Approval Recommended?

Yes

### Item Details

The Town's Drug & Alcohol Policy was last updated in 2015. Since that time, new policy language and training requirements have been released from the Federal Motor Carrier Safety Administration (FMCSA), resulting in the need to update the Town's existing policy. Additionally, discussions with the Town's leadership team supports expanding the policy's random testing program to include safety-sensitive positions and moving to a "zero-tolerance" policy, in regard to illegal drug use and alcohol use while on the job.

### **FMCSA Requirements**

Many of the Town's positions require a Commercial Drivers License to operate equipment needed to perform the job. The Federal Motor Carrier Safety Administration requires employers to provide certain information to employees who are Commercial Drivers (CDL and CLP holders), and to obtain a signed acknowledgement from the Commercial Driver, stating that they have received the information. The required information and acknowledgement form have been added as an appendix to the revised policy.

### **Random Testing for Safety Sensitive Positions**

Historically, the Town has only conducted random drug & alcohol testing for positions that require a Commercial Drivers License (CDL), in accordance with FMCSA regulations. The revised policy adds a new "Safety Sensitive" category of positions that will now be subject to random drug and alcohol testing, due to the nature of their duties and the elevated risk of harm to the public, should a mistake occur. Random drug testing for this safety sensitive category will be conducted at a rate of no less than 25% per year and random alcohol testing at a rate of no less than 10% per year (ex: if a department has 100 employees who perform safety sensitive duties, a minimum of 25 will be randomly selected over the course of the year to submit to drug testing, and a minimum of 10 will be selected for alcohol testing).

The first two groups of positions that will be added to the random testing pool will be Fire Suppression and Sworn Police positions. These positions are included in the random testing pool in many neighboring municipalities, and on-site testing protocols have been put into place to reduce the disruption to the work day and increase the privacy of those being randomly tested. The Town will continue to review other positions for safety-sensitive classification and may add additional positions to the random testing pool in the future. When new positions are determined to be safety sensitive, employees holding those positions will be given 30 days' advance notice, prior to being added to the random testing pool.

### **Zero-Tolerance Policy**

The Town's Drug & Alcohol policy revision includes a "zero-tolerance" position toward illegal drug and alcohol abuse/misuse. This means that, if an employee tests positive for illegal drugs or tests positive for the presence of alcohol while on the job, the result would be termination of employment for the employee. While we understand the significance of taking this stance, we

are committed to providing a safe working environment for our employees and the citizens they serve, and hope that communicating the zero-tolerance position to our employees will help reduce the likelihood of drug and/or alcohol misuse. The zero-tolerance position would only apply to drug tests resulting in a "positive" for illegal drugs or the presence of alcohol. Employees who come forward voluntarily seeking help for a drug or alcohol abuse problem - prior to be called for a drug test - will not be subject to the zero-tolerance policy and the Town would work with that employee to find resources to help them. It is also worth noting that employees who may be taking a drug that has been prescribed to them by a doctor would not be considered a "positive" drug test and would therefore not be subject to the zero-tolerance policy.

#### **Other Updates & Next Steps**

The policy revisions also include less significant updates, such as clarification of when an employee is required to notify their supervisor of prescription medication use, and a section of "policy prohibitions" that provides a list of specific actions that would violate the drug and alcohol policy.

If the Personnel Committee approves these changes, the updated policy would be presented to Town Council for approval, and made effective 30 days after all employees have been trained on the new revisions. The training would cover conditions on when an employee may be subject to drug testing, procedures when a drug test occurs, and the Town's zero-tolerance position against illegal drug and alcohol use. We would also include information on how to seek help if an employee has a substance abuse problem, and resources available to them.

This item was presented to the Personnel Committee on January 28, 2021, and unanimously approved.

#### Attachments

- Drug and Alcohol Policy Revisions 2021

