

Town of Apex Administrative Policy and Procedure Drug and Alcohol Policy		Administrative Policy Number: 100
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		Approved by: Apex Town Council
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I. Introduction

The Town of Apex is committed to maintaining a safe and productive working environment. In support of this commitment, the Town has developed this Drug and Alcohol Policy in compliance with North Carolina Drug Testing Acts, N.C. Gen. Stat. §§ 95-230 to 95-235; N.C. Admin Code tit.13, r. 20.0100 to 20.0602, and the Fourth Amendment to the United States Constitution as it covers employees of governmental entities. This policy applies to all Town of Apex employees.

Drug or alcohol abuse affects work performance, workplace safety, and the public's safety. Town of Apex employees have the right to come to work without fear of interacting with someone under the influence of drugs or alcohol. The Town does not tolerate the abuse of drugs or alcohol in the workplace and prohibits the use of illegal drugs by its employees both on and off the job.

Any employee suffering from a substance abuse problem (drugs or alcohol) is encouraged to seek help. The Town's Employee Assistance Program (EAP) is available for a confidential evaluation and referral for substance abuse treatment if necessary. Compliance with this Drug and Alcohol Policy is a condition of your hire and continued employment.

Any violations of this policy will subject the employee to disciplinary action, up to and including dismissal. The Town of Apex has "zero" tolerance for drug or alcohol possession or use as described in this policy, and a verified violation of the policy will result in termination from employment by the Town of Apex.

Note: Exceptions to this policy apply for Police Officers acting in accordance with their official duties.

II. Purpose

The purpose of the drug and alcohol policy is to:

1. Identify requirements and actions necessary to eliminate drug abuse and alcohol misuse in the Town of Apex.
2. Ensure full compliance with Federal requirements for establishing a drug-free workplace.
3. Identify when, and under what conditions, Town employees are subject to drug and alcohol testing.
4. Identify when employer notification is required for the use of legally prescribed medications.

III. Scope of Drug and Alcohol Testing

All candidates who have been offered employment with the Town are subject to post-offer pre-employment drug testing. Additionally, all regular employees and limited service employees are subject to:

- reasonable suspicion testing
- return to duty testing
- follow-up testing
- post-accident testing

In addition to the above tests, employees with assignments considered Safety Sensitive are required to participate in random alcohol testing and/or random drug testing. Employees with Safety Sensitive assignments are those:

- who possess a Commercial Driver's License (CDL) or Commercial Learner's Permit (CLP), are assigned commercial vehicle driving responsibilities for the Town of Apex, and who are covered under Federal Motor Carrier Safety Administration (hereafter-- FMCSA) drug and alcohol testing regulations.
- whose duties have responsibilities considered by Town of Apex management to be Safety Sensitive. Refer to [Appendix A--Town of Apex Safety Sensitive Positions](#). (Updates are maintained and available from the HR Department)

IV. Conditions for Testing

Pre-employment Testing

After an offer of employment has been made to the final candidate, the applicable Department directs the applicant to the drug testing collection site and receives notification of the test result. Applicants are not eligible to begin work until the Department receives the negative test result.

Additionally, for commercial drivers:

Under FMCSA regulations a DOT pre-employment drug test must be administered if there is a lapse of more than 30 days when the driver is not registered in a DOT random pool.

Reasonable Suspicion

The Town of Apex may require that an employee undergo drug and alcohol testing when, in the opinion of the Human Resources Director or Safety and Risk Manager and the Department Director and/or the supervisor of the affected employee, there is a reasonable suspicion that the employee may be under the influence of alcohol or controlled substances. The determination to test for reasonable suspicion must be based on the following:

- first hand observations seen or heard by supervisors or Department Directors
- specific, clearly stated observations concerning the appearance, behavior, speech or body odor of the employee
- observations made just before, during, or just after the performance of job duties
- citation or arrest for a drug-related offense if the employee is in a safety-sensitive position, or when citation or arrest is in combination with other factors considered in reasonable suspicion testing

A reasonable suspicion alcohol test should be done within 2 hours of the observed behaviors. If a test cannot be done within 8 hours, it should not be done. A reasonable suspicion controlled substance test should be done no later than 32 hours from the observed behavior and appearance

or as soon as possible if reasonable suspicion testing results from a drug-related citation or arrest. If a reasonable suspicion test cannot be conducted within the specified time frame, the reasons for the failure to test should be documented by the supervisor and given to the Safety and Risk Manager.

An employee who is required to submit to reasonable suspicion testing will be driven to the testing site and will be placed on a non-disciplinary suspension pending the test results. An employee who refuses to submit to reasonable suspicion testing or avoids meeting the specified time limits will be considered to have a positive result and their employment will be terminated.

Random Testing

Unannounced random tests for commercial drivers will follow requirements of FMCSA drug and alcohol testing regulations. For other Safety Sensitive employee categories, the annual number of unannounced random tests will total no less than 25% of the total number of Safety Sensitive employees in each Department.

The Town of Apex contracts with a third party administrator (TPA) to generate the random test lists and the Human Resources Department coordinates with the TPA to establish the locations and times for the tests.

Upon receipt of notice to appear for a random drug or alcohol test, employees must immediately proceed to the designated test site to complete the screening. Failure to report immediately to the test site will be considered a refusal to test and employment will be terminated.

Post-Accident Testing

Post-accident testing is conducted following any accident involving a Town employee if any one of the following conditions is met:

- A fatality occurs as the result of the accident.
- An individual involved in the accident requires transport or medical treatment at the hospital emergency department. (Exceptions: Non-motor vehicle related, line of duty injuries incurred during emergency responses by Police or Fire and judged by the Department Director and Safety and Risk Manager or HR Director to be the result of unforeseeable or uncontrollable circumstances.)
- The driver of a motor vehicle was cited for a moving traffic violation and a vehicle involved in the accident was disabled to the extent that it must be towed.

Post-accident alcohol testing should be done within 2 hours of the accident. If the test cannot be performed within 8 hours, it should not be done. Post-accident drug testing must be performed within 32 hours of the accident, or it should not be done. If the tests cannot be performed in the specified time frame, the reasons for the failure to test should be documented by the supervisor and reported to the Safety and Risk Manager

An employee who is required to submit to Post-Accident testing will be driven to the testing site and will be removed from performing safety sensitive functions pending the test results. An employee who refuses to be tested or avoids meeting the specified time limits will be considered as having a positive test result and employment will be terminated.

Return to Duty and Follow-Up Testing

Return to Duty and Follow-Up Testing may be authorized and required on a case by case basis. If approved by management, and upon recommendation of the substance abuse professional, an employee who has violated this policy may have an option to complete a substance abuse program to return to work.

Return to Duty drug and/or alcohol testing must be conducted prior to the employee returning to work.

Follow-Up drug and/or alcohol testing is required once the employee successfully completes the prescribed substance abuse or alcohol abuse requirements and returns to work. Follow-up tests will be conducted on an unannounced basis as prescribed by the substance abuse professional.

V. Positive Test Results

Alcohol Tests

A breath alcohol level of 0.04 or higher as measured by a breath alcohol test administered by a technician certified to operate the testing device, is considered a positive alcohol test. A positive breath alcohol test for any on-duty Town of Apex employee will result in the employee's immediate placement on unpaid administrative leave pending determination of disciplinary action up to and including termination from employment with the Town of Apex. If a breath alcohol concentration is .02 or greater but less than .04, the employee must be removed from the work place for a 24-hour period and is subject to disciplinary action up to and including dismissal. Any future incidence of a breath alcohol concentration of .02 or greater, within a three year period, will result in the employee's termination from employment with the Town of Apex.

For commercial drivers; additionally:

Under FMCSA regulations, a breath alcohol test level of 0.039 or greater requires a confirmation test. Confirmation tests are completed no sooner than 15 minutes after the initial screening test, but no later than 30 minutes after that test. If the screening and confirmation tests are not the same, the confirmation test is deemed to be the final result.

Positive alcohol tests from on-duty employees assigned as commercial drivers (CDL or CLP holders) must be reported to NCDOT and the FMCSA Clearinghouse, and results in the loss of the commercial driver's license.

Drug Tests

Drug tests are performed for at least the following types of drugs:

- Marijuana
- Cocaine
- Opiates
- Phencyclidine (PCP)
- Amphetamines

Drug testing for Law Enforcement Officers, Telecommunicators, Evidence Clerk, and Commercial Drivers must be by urinalysis. Drug tests for all other employees may be urinalysis or other screening method approved by management.

Drug tests requiring an employee to provide a urine specimen will be conducted at an approved collection facility or may be conducted onsite by a certified collector. The collection, analysis, and reporting processes are strictly controlled to ensure accuracy of test results and maximum confidentiality.

Every specimen undergoes an initial screening followed by a confirmation test for all positive screening results. Any confirmed positive test result is reviewed and interpreted by a Medical Review Officer (MRO). The MRO will contact the employee to ensure no factors exist that may have influenced the outcome of the testing process prior to transmission of the results to the Town. The MRO is responsible for confirming test results. A confirmed positive test result for any Town of Apex employee will result in the employee's termination from employment.

For commercial drivers and CDL or CLP applicants; additionally:

Confirmed positive drug tests from on duty employees assigned as commercial drivers (CDL or CLP holders), and from CDL or CLP applicants must be reported to NCDOT and the FMCSA Clearinghouse, and results in the loss of the commercial driver's license.

For Telecommunicators, Law Enforcement Officers, and Applicants for Telecommunications or Law Enforcement positions; additionally:

Confirmed positive drug tests must be reported to the North Carolina Sheriffs' Standards Commission or the North Carolina Criminal Justice Standards Division as applicable, and may result in the loss of certification as a criminal justice officers.

Refusal to test

An employee's refusal to consent to testing as directed under this policy is considered a positive test and will result in the employee's termination from employment.

Attempting to defraud a drug or alcohol test

The use or attempted use of an adulterant (anything added to a specimen to attempt to hide drug use), substitution of a specimen, or attempt to substitute a specimen is considered a refusal to test and a violation of this Policy. Any employee who is found to have violated this Policy by attempting to defraud a drug or alcohol test will be terminated for willful misconduct, or withdrawn from consideration for a job offer.

Defrauding drug and alcohol screening tests; penalty. N.C. Gen. Stat. § 14-401.20.

In NC it is unlawful for a person to:

- (1) sell, give away, distribute, market, or transport urine with the intent of using the urine to defraud a drug or alcohol screening test;
- (2) attempt to defraud a drug or alcohol test by substituting or adulterating a sample, or the advertising substitute samples or adulterants;
- (3) adulterate a test sample with the intent to defraud a drug or alcohol test; or
- (4) possess or sell adulterants which are intended to be used to adulterate a test sample for the purpose of defrauding a drug or alcohol screening test.

Individuals convicted under this law are guilty of a Class 1 misdemeanor for the first offense, and a Class 1 felony for a second or subsequent offence.

VI. Use and Reporting of Prescription Drugs, Medications, and other Chemical Substances

All employees are responsible for having a thorough understanding of the effects and potential side effects of medications or other chemical substances they are taking. Any employee taking prescription-medications that may impair their ability to safely perform their job duties, and who works in a safety sensitive position, or who has duties requiring them to operate a motor vehicle, power tools, machinery or equipment; or who participates in confined space entry operations, traffic control or work zone operations, or is exposed to electrical or fall hazards shall inform their supervisor of their medication usage and may be required to provide a doctor's note addressing specific limitations while taking the impairing medication. With regard to reporting medication usage to a supervisor, narcotic/opiod prescription usage is of primary concern and should always be reported, however other medication usage that causes the employee to be drowsy, inattentive, faint, or careless should also be reported to the supervisor. All medications should be taken at their prescribed dosage.

If such medication use is not disclosed pre-duty and the employee tests positive for the impairing effect medication, the employee will be immediately placed on unpaid administrative leave pending determination of disciplinary action up to and including termination from employment with the Town of Apex.

Any documentation of an employee's notification to their supervisor of drug or substance use shall be maintained in a secured medical file separate from the employee's personnel file. With the approval of the Department Director, an employee may be temporarily reassigned to other duties if their use of a medication has potential to impair safe performance of their normal job duties.

No employee shall report for duty or remain on duty when using any illegal drug or substance including those identified in [21 CFR 1308.11 Schedule I](#) . Schedule 1 substances are identified by the US Drug Enforcement Administration as having no currently accepted medical use and having a

high potential for abuse. Possession or use of Schedule 1 substances is illegal under Federal law. Schedule 1 substances include, depressants, stimulants, hallucinogenics, and opiates.

Additionally, for Commercial Drivers employed by the Town of Apex to drive a commercial vehicle(s):

- No commercial driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any non-Schedule I drug or substance that is identified in the [other Schedules in 21 CFR part 1308](#) (other Schedules in 21 CFR 1308 also include, depressants, stimulants, hallucinogenics, and opiates), except when the use is pursuant to the instructions of a *licensed medical practitioner*, who is familiar with the driver's medical history and has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle; and operation of the motor vehicle is approved by management. (As defined in § 382.107, a *licensed medical practitioner* means a person, who is licensed, certified, and/or registered, in accordance with applicable Federal, State, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.)
- No employer having actual knowledge that a driver has used a controlled substance shall permit the employee or driver to perform or continue to perform a safety-sensitive function unless specifically authorized by a *licensed medical practitioner* and approved by management as listed above.

VII. Voluntary Referrals for Assistance

The Town is committed to helping those who may struggle with substance abuse or have a substance abuse disorder, and can connect employees to resources for help. If you think you may have a substance abuse problem, you can voluntarily and confidentially contact HR for assistance in getting connected to resources, or call 1-800-662-HELP (4357) to reach the Substance Abuse and Mental Health Services Administration (SAMHSA) National Helpline.

The Town's Employee Assistance Program is also a confidential resource that is available to employees who may need help. Counseling and rehabilitation for alcohol or substance abuse is available through the EAP program; however, the Town will assume no direct financial responsibility for counseling or rehabilitation received by an employee. Any costs in addition to available health benefits are the employee's responsibility.

It is important to note that, although the Town encourages employees who may have a drug or alcohol problem to voluntarily seek help, coming forward after being notified to report for drug or alcohol testing is not considered a voluntary admission of needing help, and testing results will be subject to the zero-tolerance provisions of this policy.

VIII. Mandatory Referrals for Assistance

An employee who has voluntarily disclosed a drug or alcohol problem and who has not been dismissed shall be required as a condition of continued employment to undergo a drug and alcohol assessment and participate in a treatment program as recommended by a Town of Apex approved assessing agency.

The Town of Apex respects the right of any employee to refuse assistance for a drug or alcohol problem. However, the Town maintains the right and responsibility for taking disciplinary action regarding alcohol and substance abuse and for protecting the public's safety.

IX. Alcohol and Drug-Related Offense Convictions

An employee who has been cited or convicted of a drug or alcohol-related offense must report the citation or conviction to the supervisor immediately. Any drug or alcohol-related conviction which could directly or indirectly affect the employee's credibility or ability to effectively carry out the duties and responsibilities of their position will be reviewed by the Town Manager and may result in disciplinary action up to and including termination.

X. Training

1. Supervisors of commercial drivers will be trained to recognize behaviors that may indicate drug and alcohol abuse and how to take appropriate referral action. In addition, employees will be provided with information regarding the effects of alcohol and controlled substances in the body including the impact on work performance and resources for assistance.
2. Commercial Drivers must receive training information contained in Appendix C of this policy, and must sign and return the certificate attesting to their receipt of the information to the Safety and Risk Manager.
3. FMCSA requires newly hired and re-activated commercial drivers, and current employees in the process of obtaining a commercial driver's license, to create an account on the FMCSA Clearinghouse website. It further requires the employer (TOA) to query the employee's account, prior to the employee driving a commercial vehicle, to verify the employee is not prohibited from driving a commercial vehicle due to unresolved drug or alcohol violations. Additionally, CDL (Commercial Driver's License) and CLP (Commercial Learner's Permit) holders must sign an authorization (Appendix D following) allowing the Town of Apex to query their driver's license annually on the Clearinghouse website. Refusal to sign the authorization will disqualify the driver from operating a commercial vehicle and result in termination of employment.

XI. Policy Prohibitions

1. With respect to illegal drug use, abuse, or possession whether on or off duty, employees are subject to disciplinary action up to and including termination or rejection of their application for employment. The following actions will result in termination or removal from employment consideration with the Town of Apex:
 - a. Testing positive on a confirmed drug or alcohol test, or refusing to be tested.
 - b. Bringing and/or storing illegal drugs or drug paraphernalia on Town premises or property, including in a desk, locker, personal or Town owned or leased motor vehicle, or other repository,
 - c. Having possession of, being under the influence of, testing positive for, or otherwise having in one's system, illegal drugs or medications for which the employee does not have a valid prescription.
 - d. Using, consuming, transporting, distributing or attempting to distribute, manufacturing, selling, or dispensing illegal drugs or medications.
 - e. Being convicted of, or entering a plea of guilty or no contest to any controlled substance offense. (The employee must notify their supervisor immediately of any controlled substance related arrest, conviction, charge, deferred adjudication, or deferred prosecution.)
 - f. Abuse of prescription drugs which includes exceeding the recommended prescribed dosage or using other's prescribed medications. (Prescription medications brought to work should remain in the original labeled container and show both the prescribing doctor's name and the prescription's expiration date.)
 - g. Switching, tampering with, diluting, or adulterating any drug test specimen or sample collected under this Policy, or attempting to do so.
 - h. Refusing to cooperate with the terms of this Policy, including drug testing and submitting to

questioning. (A refusal to test includes conduct obstructing testing such as failure to sign necessary paperwork or failing to report to the collection site at the appointed time.)

- i. Failure to advise the supervisor or manager of the use of prescription or over-the-counter drugs which may alter the employee's ability to safely perform the essential functions of their job.
 - j. Failure to notify the supervisor before reporting to work if the employee believes they may be impaired by their use of drugs (prescription drugs or other).
 - k. Use of hemp products that result in a THC positive drug test, ex: CBD oil. (The Town will not consider the use of hemp products a valid medical explanation for a THC positive test result.)
2. With respect to alcohol use, abuse, or possession, employees are subject to disciplinary action up to and including termination or rejection of their application for employment. The following actions will result in termination or removal from employment consideration with the Town of Apex:
- a. Bringing and/or storing alcohol in an open or unsealed container on Town premises or property, including in a desk, locker, or Town owned or leased motor vehicle, or other repository. (Except beer, wine, or spirits in a sealed container intended as a gift to a coworker for off duty/off premises consumption may be temporarily stored in a secure location in office areas only, or may be lawfully stored in the employee's personal motor vehicle.)
 - b. Being under the influence, testing positive, or having alcohol in one's system while on duty. (Commercial Drivers--alcohol may not be consumed during the four (4) hours prior to your scheduled start time),
 - c. Using, consuming, distributing or attempting to distribute, selling, or dispensing alcohol while in the workplace or on Town property.
 - d. Switching, tampering with, or adulterating any test specimen or sample collected under this Policy, or attempting to do so.
 - e. Refusing to cooperate with the terms of this Policy including alcohol testing and submitting to questioning. (A refusal to test includes conduct obstructing testing such as failure to sign necessary paperwork or failing to report to the collection site at the appointed time.)
 - f. Consuming alcohol within 8 hours following an accident requiring a post-accident alcohol test, or prior to a post-accident test, whichever occurs first.
 - g. Receiving a conviction or pleading guilty to any criminal alcohol offense, or receiving a temporary or permanent suspension of a driver's license due to an alcohol-based arrest. (The employee must notify their supervisor immediately of any alcohol related arrest, conviction, charge, deferred adjudication, or deferred prosecution.
 - h. Failure of an employee to notify their supervisor before reporting to work if they believe they may be under the influence of alcohol.

APPENDIX A

Town of Apex Safety Sensitive Positions

Following is a list of safety sensitive positions. These positions were determined to be safety sensitive due to their specific job duties. The Town reserves the right to evaluate the list of safety sensitive positions and to modify, update or otherwise change the designations. Drivers of Town of Apex Commercial Vehicles are considered safety sensitive whether or not their position is specifically listed in Appendix A.

Safety Sensitive Job Classifications	
<p>Fire Department Assistant Fire Chief Deputy Fire Marshall Fire Battalion Chief Fire Captain Fire Chief Fire Engineer Fire Inspector Fire Lieutenant Fire Marshall Fire Training Coordinator Firefighter Senior Firefighter</p>	<p>Police Department Telecommunicators of any position Police Officers of any rank Evidence Clerk</p>
Commercial Drivers (CDL and CLP holders)	
<p>Electric Utilities Department Electric Line Technician Apprentice Powerline Right Of Way Technician Powerline Arborist Powerline Arborist Trainee Electrical Operations Manager Journeyman Electric Line Technician I, II, III Electric Crew Field Supervisor Electric Technical Services Supervisor Electric Training and Safety Specialist</p>	<p>Public Works Operations Solid Waste Equipment Operator Field Crew Supervisor Supervisor</p> <p>Street Maintenance Field Crew Supervisor Heavy Equipment Operator Maintenance Technician Maintenance Technician, Senior Sign Technician Sign Worker Supervisor</p>
<p>Facility Services Grounds Crew Field Supervisor Grounds Maintenance Technician</p> <p>Fleet Services Fleet Services Mechanic</p> <p>Fleet Services Supervisor Senior Fleet Services Mechanic</p>	<p>Public Works Water Resources</p> <p>Sewer Maintenance Collection System Supervisor Pump Maintenance Supervisor Pump Maintenance Mechanic</p> <p>Water Maintenance Heavy Equipment Operator Senior Utility Maintenance Worker Utility Maintenance Worker Utility Crew Field Supervisor Utility Crew Field Supervisor Utility Technician Utility Maintenance Supervisor Water Quality Supervisor</p>
<p>Park Maintenance Parks Operations Supervisor (if CDL) Parks Operations Team Leader (if CDL)</p>	<p>Water Reclamation Facility Water Reclamation Facility Operator/Mechanic Water Reclamation Facility Team Leader</p>

[Appendix B](#)

OBSERVED BEHAVIOR – REASONABLE SUSPICION

Employee: Name: _____

Department: _____

Observation: Date: _____ Time: (from _____ am/pm to _____ am/pm)

Location: _____

1. PRESENCE of Alcohol, Drugs, or related Paraphernalia
(Specify):

- 2. APPEARANCE:** Normal Flushed Puncture marks
 Disheveled Bloodshot eyes Tremors
 Profuse sweating Runny nose Dry mouth symptoms
 Pupils dilated/constricted Inappropriate wearing of sunglasses
 Other _____
-

3. BEHAVIOR:

- Speech: Normal Incoherent Slurred Silent
 Confused Slowed Whispering
 Other _____

- Awareness: Normal Confused Mood swings Euphoria
 Lethargic Paranoid Disoriented Lack of coordination
 Other _____
-

4. MOTOR SKILLS:

- Balance: Normal Swaying Falling Staggering
 Other _____

Walking and

- Turning: Normal Swaying Arms raised for balance
 Stumbling Falling Reaching for support
 Other _____
-

- 5. ODORS:** Alcohol and/or Marijuana odor in the immediate vicinity of the person

OTHER OBSERVED ACTIONS OR BEHAVIOR (Specify): _____

Witnessed by:

_____ am/pm
(Signature) (Title) (Date) (Time)

Appendix C

Commercial Driver Supplement to the Town of Apex

Drug and Alcohol Policy Q and A

As required by Federal Motor Carrier Safety Administration regulations, this information is provided to Town of Apex (TOA) employees assigned to operate commercial motor vehicles.

(1) Who is designated to answer questions about the TOA Drug and Alcohol Policy and supplemental information?

The HR Director, HR Manager, or the Safety and Risk Manager are designated to answer questions about the Policy and Supplement.

(2) What categories of drivers are subject to the provisions of this FMCSA regulation part?

All CDL and all CLP holders whose job specifications or assignments require the operation of commercial vehicles for the TOA.

(3) What period of the work day is the driver required to be in compliance with FMCSA drug and alcohol regulations?

Whenever a driver is on duty they are required to be free from drugs and alcohol. Within 4 hours of reporting for duty a driver must not consume any alcohol. "On Call" personnel may not report to duty within 4 hours of consuming alcohol.

(4) What drug or alcohol related conduct is prohibited by FMCSA?

A. Alcohol concentration.

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater.

B. On-duty use.

No driver shall use alcohol while performing safety-sensitive functions.

C. Pre-duty use.

No driver shall perform safety-sensitive functions within four hours after using alcohol.

D. Use following an accident.

No driver required to take a post-accident alcohol test required by FMCSA rules shall use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

E. Refusal to submit to a required alcohol or controlled substances test.

No driver shall refuse to submit to a controlled substance or alcohol test required under FMCSA regulations including pre-employment, post-accident, random, reasonable suspicion, or other test.

F. Controlled substance use (FMCSA §382.213).

(i) No driver shall report for duty or remain on duty requiring the performance of safety sensitive functions when using any drug or substance identified in 21 CFR 1308.11 Schedule I. ("Schedule 1 Controlled Substances" are those considered to have a high potential for abuse and have no currently accepted medical use in treatment in the United States.)

(ii) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any non-Schedule I drug or substance that is identified in the other Schedules in 21 CFR part 1308 except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in §382.107, who is familiar with the driver's medical history and has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle. And operation of the motor vehicle is approved by management.

Note: Under FMCSA regulations §382.213 (d), "An employer may require a driver to inform the employer of any therapeutic drug use."

(5) What are the circumstances under which a commercial driver will be tested for alcohol and/or controlled substances?

Commercial drivers are subject to:

A. Pre-employment drug testing—verification of negative drug test results are required

prior to the operation of a commercial motor vehicle or if there is a lapse of more than 30 days when the driver is not registered in a DOT random pool.

- B. Random drug and alcohol testing—commercial drivers are subject to random testing throughout their employment as commercial drivers.
- C. Reasonable Suspicion drug or alcohol testing—commercial drivers are subject to drug and alcohol testing when in the opinion of the Human Resources Director or Safety and Risk Manager and the department head and/or the supervisor of the affected employee, there is a reasonable suspicion that the employee may be under the influence of alcohol or controlled substances. The determination to test for reasonable suspicion must be based on the following:
- first hand observations seen or heard by supervisors or department heads
 - specific, clearly stated observations concerning the appearance, behavior, speech or body odor of the employee
 - observations made just before, during, or just after the performance of job duties
 - citation or arrest for a drug-related offense if the employee is in a safety-sensitive position, or when citation or arrest is in combination with other factors considered in reasonable suspicion testing

- D. Post Accident testing as defined in the TOA Drug and Alcohol Policy:
Post-accident testing is conducted following any accident involving a Town employee if any one of the following conditions is met:
- A fatality occurs as the result of the accident.
 - An individual involved in the accident requires transport or medical treatment at the hospital emergency department.
 - The driver of a motor vehicle was cited for a moving traffic violation and a vehicle involved in the accident was disabled to the extent that it must be towed.

Note: Post-Accident and Reasonable Suspicion alcohol testing should be done within 2 hours of the accident or observed behavior. If the test cannot be performed within 8 hours, it should not be done.

Post-Accident and Reasonable Suspicion drug testing must be performed within 32 hours of the accident or observed behavior or it should not be done. If the tests cannot be performed in the specified time frame, the reasons for the failure to test should be documented by the supervisor and given to the Safety and Risk Manager. An employee who is asked to submit to Post-Accident or Reasonable Suspicion testing will be driven to the testing site and will be placed on a non-disciplinary suspension pending the test results. An employee who refuses to be tested or avoids meeting the specified time limits will be considered as having a positive test result and employment will be terminated.

- E. Return to Duty and Follow-Up Testing may be authorized and required on a case by case basis. If approved by management, and upon recommendation of the substance abuse professional, an employee who has violated this policy may have an option to complete a substance abuse program to return to work.

Return to Duty drug/alcohol testing must be conducted prior to the employee returning to work.

Follow-Up drug/alcohol testing is required once the employee successfully completes the prescribed substance abuse or alcohol abuse requirements and returns to work. Follow-up tests will be conducted on an unannounced basis as prescribed by the substance abuse professional.

- (6) How does the TOA test for the presence of alcohol and controlled substances? What measures does the TOA take to protect the driver and the integrity of the testing processes,

safeguard the validity of the test results, and ensure that those results are attributed to the correct driver?

The Town of Apex contracts with a Third Party Administrator who provides chain of custody forms and tamper seals for handling of specimens (urine and breath alcohol test results). Specimens are collected at approved collection locations (may be on site) and sent to DOT approved testing laboratories. All positive test results are reviewed by a DOT qualified Medical Review Officer.

- (7) What happens if a driver fails to submit to an alcohol or controlled substances test required by FMCSA?

Failure to provide a urine specimen necessary for a required drug test is considered a refusal to test and is considered a positive test. Failure to provide a required breath alcohol specimen is considered a refusal to test and is considered a positive test. In both instances, the refusal will result in termination of employment.

- (8) What constitutes a refusal to submit to an alcohol or controlled substances test and what are the consequences?

Failure to provide a sufficient quantity of urine or failure to provide a breath specimen when requested are considered refusals to test. Refusal to submit to an alcohol or controlled substance test will result in a report of the refusal being sent to NCDOT and FMCSA Clearinghouse, and termination of employment.

- (9) What are the consequences for drivers who test positive on a controlled substances or alcohol test administered in compliance with FMCSA regulations?

A driver who tests positive for controlled substances or alcohol will be immediately removed from safety sensitive functions and employment will be terminated.

- (10) What are the consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04?

The employee must be removed from the work place for a 24-hour period (placed on unpaid leave) and is subject to disciplinary action up to and including dismissal. Refer also to TOA Drug and Alcohol Policy, Section V. Positive Test Results.

- (11) What additional information does FMCSA require to be communicated to commercial drivers concerning the effects of alcohol and controlled substances use on: a.) an individual's health, work, and personal life; b.) signs and symptoms of an alcohol problem; c.) signs and symptoms of a controlled substances problem and d.) available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation and referral to an employee assistance program and/or referral to management.

a.) Effects of Controlled Substance and Alcohol Misuse on an Individual's Health, Work, and Personal Life

1. Alcohol is a central nervous system depressant. Taken in large quantities, it causes not only the euphoria associated with "being drunk" but also adversely affects judgment, ability to think, and motor functions.
2. Long-term overuse of alcohol can cause liver damage, heart problems, sexual dysfunction, and other serious medical problems.

3. In some cases, alcohol use can lead to physical and psychological dependence on alcohol. Alcoholism is a serious chronic disease that left untreated can worsen.
4. Workers who use alcohol and other controlled substances affect others within the workplace and outside the workplace. According to the US Dept. of Health and Human Services, compared to alcohol and controlled substance-free workers, substance abusers are less productive, miss more workdays, and are more likely to injure themselves or someone else, resulting in increased medical injury claims.
5. The measurable dollar costs of workplace substance abuse from absenteeism, overtime pay, tardiness, sick leave, insurance claims, and workers' compensation can be substantial. Additional costs include those for diverted supervisory and managerial time, friction among coworkers, damage to equipment, and damage to the entity's public image.
6. Substance abuse can also destroy relationships, lead to serious problems with the law (e.g., drunk driving), and even cause harm to the people you love.
7. If substance abuse affects your work life it could lead to job loss and all of the financial problems that would follow.
8. Signs of illegal controlled substance use may include when a person is carrying controlled substances on their person or has them hidden around the house. Possession of controlled substance paraphernalia is also a likely sign of use.
9. Indications of prescription drug misuse vary according to the type of controlled substance or medication. Controlled substance misuse may lead to dependence, and withdrawal symptoms can be severe if controlled substance use is stopped suddenly.
10. Other signs may include: an abrupt change in mood or attitudes, sudden and continuing decline in attendance or performance at work or in school, impaired relationships with family members or friends, unusual temper flare-ups, increased borrowing of money from parents or friends, stealing from the home or in the workplace, heightened secrecy about actions and possessions, association with a new group of friends, especially with those who use controlled substances.

b.) Signs and Symptoms of Alcohol Misuse

Any one or more of the following signs may indicate a drinking problem:

1. Family or social problems caused by drinking.
2. Job or financial difficulties related to drinking.
3. Loss of a consistent ability to control drinking.
4. "Blackouts" or the inability to remember what happened while drinking.
5. Distressing physical and/or psychological reactions if you try to stop drinking.
6. A need to drink increasing amounts of alcohol to get the desired effect.
7. Marked changes in behavior or personality when drinking.
8. Getting drunk frequently.
9. Injuring yourself or someone else while intoxicated.
10. Breaking the law while intoxicated.
11. Starting the day with a drink.

c.) Signs and Symptoms of a Controlled Substance Problem

Controlled substances can show their effects in many different ways. Some of the most noticeable signs are: drowsiness, respiratory depression, constricted pupils, nausea

slurred speech, excitement, loss of appetite, poor perception of time and distance, relaxed inhibitions, disoriented behavior, watery eyes, runny nose, chills and sweats, convulsions, apathy, depression, and the use of controlled substance paraphernalia.

d.) Intervening When a Controlled Substance or Alcohol Problem is Suspected, Including Confrontation, Referral Program, and/or Referral to Management

1. Reasons why you should be concerned if any of your coworkers are using a controlled substance or alcohol on the job:
 - (i) Your health and safety may be at risk.
 - (ii) Substance abuse can cost you, your coworkers, and your employer money.
 - (iii) Substance abuse can create a negative work environment.
2. According to the National Institute on Alcohol Abuse and Alcoholism, controlled substance and alcohol use on the job costs society billions of dollars annually. Since costs related to alcohol and substance abuse may be passed on in the form of higher health insurance rates or in the prices you pay for consumer goods, controlled substance and alcohol use on the job can increase those costs to you and your coworkers.
3. Absenteeism among problem drinkers or alcoholics means you may have to do their jobs in addition to your own.
4. Substance abusers may not function at their full potential. In addition to the absenteeism, at work these employees may have reduced capabilities and productivity.
5. No matter what your position in the organization, you can help ensure that controlled substance and alcohol use on the job never becomes a problem at work. Acceptance of any misuse puts you, the organization, and the public at risk.
6. Employees who request help from the Human Resources Department or the Town's EAP for a drug or alcohol addiction problem prior to receiving a notification to report for a random or reasonable suspicion test and prior to testing positive on employment related drug or alcohol tests will be referred to the Town's EAP provider. Costs associated with the rehab treatment must be paid by the employee.

(12) What information must be reported to the FMCSA Clearinghouse?

- (a) A verified positive, adulterated, or substituted drug test result;
- (b) An alcohol confirmation test with a concentration of 0.04 or higher;
- (c) A refusal to submit to any test required by FMCSA;
- (d) An employer's report of actual knowledge of:
 - (i) On duty alcohol use;
 - (ii) Alcohol consumption within 4 hours of reporting for duty;
 - (iii) Alcohol consumption within 8 hours following an accident requiring a post-accident alcohol test, or prior to a post-accident test, whichever occurs first.
 - (iv) Controlled substance use pursuant to §382.213 [stated in (4)(F) (i) and (ii) above];
- (e) A substance abuse professional report of the successful completion of the return-to-duty process;
- (f) A negative return-to-duty test; and
- (g) An employer's report of completion of follow-up testing.

[Appendix D](#)

General Consent for Limited Queries of the Federal Motor Carrier Safety Administration (FMCSA) Drug and Alcohol Clearinghouse

I, (Driver Name) _____, hereby provide consent to the Town of Apex to conduct limited queries of the FMCSA Commercial Driver's License Drug and Alcohol Clearinghouse (Clearinghouse) to determine whether drug or alcohol violation information about me exists in the Clearinghouse.

This consent is in effect for all limited queries of my driver's license conducted by the Town of Apex for the duration of my employment with the Town.

I understand that if the limited query conducted by the Town of Apex indicates that drug or alcohol violation information about me exists in the Clearinghouse, FMCSA will not disclose that information to the Town of Apex without first obtaining additional specific consent from me. I further understand that if I refuse to provide consent for the Town of Apex to conduct a limited query of the Clearinghouse, the Town of Apex must prohibit me from performing safety-sensitive functions, including driving a commercial motor vehicle, and my refusal will disqualify me from operating a commercial vehicle, resulting in termination of my employment with the Town.

Employee Signature

Date

[Appendix E](#)



HUMAN RESOURCES DEPARTMENT

I certify that I received a copy of the Town of Apex Drug and Alcohol Policy including Appendix C, Commercial Driver Supplement to the Town of Apex Drug and Alcohol Policy which pertains to Federal Motor Carrier Safety Administration Safety Regulations, Part 382 Controlled Substances and Alcohol Use and Testing.

Name (printed): _____

Signature: _____

Date: _____

FMCSA 49 CFR Part 382.601(d) *Certificate of receipt*. Each employer shall ensure that each driver is required to sign a statement certifying that he or she has received a copy of these materials described in this section. Each employer shall maintain the signed certificate and may provide a copy of the certificate to the driver.