

Human Resources Policy Manual

Subject: Drug/Alcohol-Free Workplace

Effective Date:

Policy: The Town of Upper Marlboro has a long-standing commitment to providing a safe and productive working environment for all employees. Alcohol and drug abuse pose a threat to the health and safety of Town of Upper Marlboro employees and those we serve, as well as to the security of our equipment and facilities. For these reasons, the Town of Upper Marlboro is committed to the elimination of drug and/or alcohol use and abuse in the workplace.

Purpose:

1. To take all reasonable steps necessary to protect the safety of our residents of the Town of Upper Marlboro and employees.
2. To help eliminate chemical substance abuse and alcohol misuse in the workplace, and to assist employees who need help in overcoming substance abuse or misuse problems.
3. To emphasize that substance abuse and/or misuse are serious threats in the workplace and that employees involved with substance abuse/misuse are more likely to be involved in work-related accidents and situations which can cause harm and suffering to themselves, their co-workers, and our residents/participants.
4. To educate employees that the sale, use, possession and distribution of illegal or prohibited substances is a violation of law and the Town of Upper Marlboro policy.

Procedure:

1. Whenever employees are working, are operating any the Town of Upper Marlboro vehicles, are present on the Town of Upper Marlboro premises, or are conducting company-related work off-site, they are prohibited from:
 - Using, possessing, buying, selling, manufacturing or dispensing an illegal drug (to include possession of drug paraphernalia and illegally used prescription medication);
 - Being under the influence of alcohol or an illegal drug as defined in this policy; and
 - Possessing or consuming alcohol
2. All applicants for employment will be required to submit to post-offer drug testing before they can begin work. Applicants will be informed in advance and will be required to acknowledge receipt of information concerning the Drug and Alcohol-Free Workplace program. Refusal to submit to testing will result in denial of employment.
3. The Town of Upper Marlboro does not desire to intrude into the private lives of its employees, but recognizes that employee's off-the-job involvement with drugs or alcohol may have an impact on the workplace. Therefore, the Town of Upper Marlboro reserves the right to take appropriate disciplinary action for drug usage/sale/distribution while off company premises. Any employee who is convicted of, pleads guilty to, or is sentenced for a crime involving an illegal drug is required to report their conviction, plea or sentence to the Human Resources department or Town Administrator within five days. Failure to comply will result in immediate termination. Cooperation with complying may result in suspension without pay to allow management to review the nature of the charges and the employee's past record with the Town of Upper Marlboro.
4. The Town of Upper Marlboro reserves the right to inspect all portions of its premises for drugs, alcohol or other contraband. All employees, contract personnel and visitors may be asked to cooperate in inspections of their persons, work areas and property that might conceal drugs, alcohol or other contraband. Employees who possess such contraband or refuse to cooperate in such inspections are subject to appropriate discipline up to and including termination.

5 Town of Upper Marlboro Police Officers are subject to random drug testing and will be required to report for the test within travel time plus 15 minutes from time of notification. Failure to report within this timeframe may result in disciplinary action up to and including termination. Refusal or non-reporting for drug testing will result in immediate termination.

6. Employees are subject to testing based upon (but not limited to) observations of apparent workplace use, possession or impairment. Human Resources shall be consulted before sending an employee for testing. Human Resources will utilize the Observation Checklist to document specific observations and behaviors that create a reasonable suspicion that the person may be under the influence of illegal drugs and/or alcohol. If the results of the checklist indicate further action is necessary:

- The employee's manager, along with the Human Resources will confront the employee with the documentation
- The employee will be relieved of their duty and transported to a collection site
- The employee will be suspended until the test results have been received by the Town of Upper Marlboro

Under no circumstances will the employee be allowed to drive themselves to the testing facility. The Town of Upper Marlboro will attempt to make transportation arrangements utilizing the employee's emergency contacts. Only in circumstances where the emergency contact cannot be reached or cannot provide transportation, the Town of Upper Marlboro will transport the employee to the testing facility. If the employee refuses to be transported and leaves the premises driving a vehicle, the Town of Upper Marlboro will notify the proper law enforcement authorities that it has reason to believe that the employee may have used a controlled substance or alcohol, is driving, and may pose a potential danger to the safety of themselves or others.

7. Employees are subject to testing when there is a reasonable belief that they caused or contributed to accidents that damage equipment or property, and/or result in an injury to themselves or another individual. In this instance, the investigation and subsequent testing may take place within two hours following the accident, if not sooner. Under no circumstances will an employee be allowed to drive themselves to the testing facility. See under Comment #6 above regarding employee's refusal for transportation.

8. Employees must report their use of over-the-counter or prescribed medications to the Human Resources department if the use may affect an employee's ability to perform their duties safely and effectively. A determination will be made whether to allow an employee to work while taking the prescribed drug(s). Employees taking a prescribed medication must carry it in the container labeled by a licensed pharmacist or be prepared to produce this if asked. Any employee or applicant taking a medication prescribed for another person will be considered to be taking an illegal substance.

9. The Town of Upper Marlboro may assist and support employees who voluntarily seek help for illegal drug use and/or alcohol misuse before becoming subject to discipline and/or termination, or other testing conditions under this policy. Such employees will be allowed to use their accrued paid leave, referred to the Employee Assistance Program (EAP), and otherwise accommodated as required by law. Such employees may be required to provide documentation that they are successfully following the prescribed treatment, and to take and pass follow-up tests. An employee will have forfeited their right to a voluntary self-admission if their illegal drug use and/or alcohol misuse has not been reported in a timely manner, and before they have been notified of a scheduled drug test. Possible discipline, up to and including termination will be unavoidable.

10. Employees who have tested positive, or otherwise violated this policy are subject to discipline, up to and including termination. Depending upon the circumstances and the employee's work history/record, the Town of Upper Marlboro may offer an employee the opportunity to return to work pursuant to evaluation by a substance abuse professional within five days from notification of a positive test result, and ongoing compliance with the recommendations of the substance abuse professional as it relates to a prescribed rehabilitation program. Participation in a treatment program does not insulate an employee from discipline for violation of this or other the Town of Upper Marlboro. If the employee either does not complete their rehabilitation program or tests positive after completing the program, they will be subject to immediate termination.

11. The employee shall be responsible for any fees not covered under the Town of Upper Marlboro's EAP program, any rehabilitation program fees, and any other expenses incurred in the rehabilitation process which are not covered by the individual's health insurance, if applicable.

12. Any applicant or employee who alters or attempts to alter, substitute or contaminate a chemical substance specimen, or otherwise fails or refuses to cooperate with testing, will be disqualified for employment or terminated. Witnessed urine specimens may be required when there is reason to believe an individual has or may alter, contaminate or substitute a specimen.

13. In accordance with the Annotated Code of Maryland, Health-General 17-214.1 Appendix D, an individual with a verified positive test result may request an independent test, at their own expense, of the **same specimen sample** to verify test results by a different certified testing laboratory. Any request for an independent test of the same specimen sample shall be made within 72 hours of the individual receiving notification from the Medical Review Officer of the test result. The individual requesting the test for verification will pay the cost of the independent test.

14. Information and records relating to test results, drug and alcohol dependencies, and legitimate medical explanations provided by the Medical Review Officer shall be kept confidential to the extent possible and maintained in secure files separate from an employee's normal personnel folder. Such records and information may be disclosed among managers on a need-to-know basis, and may be disclosed where relevant to a grievance, charge or claim or other legal proceeding initiated by or on behalf of an employee or applicant.

AUTHORITY: _____
Sarah Franklin
Mayor

Date: 9/1/23

**THE TOWN OF UPPER MARLBORO
DRUG/ALCOHOL-FREE WORKPLACE PROGRAM
CERTIFICATION/CONSENT**

As a condition of employment or continued employment, I consent to submit to chemical substance testing as required by the Town of Upper Marlboro Drug/Alcohol-Free Workplace Program.

I Understand and Acknowledge:

1. That my job is an inherent safety sensitive function affecting the care, safety and well-being of the residents of the Town of Upper Marlboro as well as other employees.
2. That as a condition of employment, I am required to submit to chemical substance testing.
3. That I will be given an opportunity to explain a confirmed positive result to the Human Resources Department.
4. That if upon notice to me that my test was positive, I fail to immediately contact the Human Resources Department as directed, it will be deemed that I have waived my right to have alternative medical factors considered in the verification of the positive test, and a verified positive test will be reported to the Town of Upper Marlboro's human resources department or the Town Administrator.
5. That I am required to submit to chemical substance testing for purposes of pre-employment, reasonable suspicion, random and follow-up testing.
6. That I am not to use or abuse chemical substances, as defined and including alcohol, while on duty, which means any period of time during which I am actually performing, ready to perform, or immediately available to perform assigned duties. This includes use of alcohol within four (4) hours prior to reporting to work.
7. That no chemical substance testing procedures will be conducted without my consent.
8. That my refusal to submit to a chemical substance testing procedure will result in denial of employment or disciplinary action up to and including termination.
9. That refusal to submit to a chemical substance testing procedure includes that I have failed or refused to provide an adequate specimen for testing without a valid medical explanation after receiving notice of the requirement to be tested or engaged in conduct that clearly obstructs the collection process.
10. That I have the right to request an independent test of the same specimen producing a confirmed positive result by a different certified testing laboratory, provided that the request is made to the human resources department within 72 hours of being notified of a verified positive test result by the human resources department, and that I am responsible for the cost of the independent test.
11. That an independent test need only demonstrate the presence of a chemical substance and is not required to satisfy any threshold or cutoff levels for drug detection.
12. That the failure to comply with the terms or violation of conduct prohibited under this program will result in denial of employment or disciplinary action, up to and including termination.
13. That upon completion of the introductory period of employment, if I have a positive test for chemical substances, I will be afforded the opportunity to avail myself of a rehabilitation program approved by the Town of Upper Marlboro; and that any subsequent violation of the program will result in immediate termination; and that I am responsible for any costs related to evaluation, treatment, counseling or rehabilitation not covered by any health insurance.
14. That I have been furnished with information describing prohibited conduct and understand the nature of conduct that is prohibited.
15. That I consent freely and voluntarily to participate in this program and authorize the Mayor designated by the Town of Upper Marlboro to release the results of my test to the Town of Upper Marlboro's Human Resources Department.
16. That this program does not imply any contractual employment agreement with the Town of Upper Marlboro and that the Town of Upper Marlboro explicitly reserves the right to employment at will.
17. That any questions I may have about the materials furnished by the Town of Upper Marlboro or this program should be directed to the human resources department.
18. That a copy of the Town of Upper Marlboro's program is available for review during regular business hours.

AND, I further acknowledge receipt/review of the Town of Upper Marlboro's program.

Signature of Applicant/Employee

Date

Printed Name of Applicant/Employee

Signature of Witness (Company Representative)

Date