

Drug and Alcohol Testing Policy

A. **Pre-employment Testing**

The Town of Randolph reserves the right to a final applicant a chemical screen test for drugs and alcohol.

Subject to "handicapped" laws, any applicant who test positive will be denied employment. Any applicant may, upon request to the Town Clerk obtain confirmation tests as described in paragraph G herein.

B. **Reasonable Suspicion Testing**

Reasonable suspicion testing is authorized when management believes an employee is using illegal drugs. This belief must be based on specific objective facts and reasonable inferences drawn from these facts in the light of experience. Reasonable suspicion does not require certainty; however, mere "hunches" are not sufficient to meet this standard. **Reasonable suspicion testing will be ordered only by management after consulting legal counsel.**

Reasonable suspicion may be based upon, among other things:

- Observable phenomena, such as direct observation of drug use and/or the physical symptoms of being under the influence of a drug.
- A pattern of abnormal or erratic behavior.
- Arrest or conviction for a drug-related offense; or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use or trafficking.
- Information provided either by reliable and credible sources or independently corroborated; or
- Newly discovered evidence that the employee has tampered with a previous drug test.

Documentation shall be developed describing the circumstances which formed the basis that reasonable suspicion exists to authorize such testing.

If reasonable cause exists to believe that an employee is consuming or is under the influence of alcohol or controlled substances on the job, the employee shall be requested to undergo a test for the presence of alcohol or drugs in the body at the town's authorized medical or drug testing center.

C. **Post Accident Testing**

Testing for the presence of drugs or alcohol will be conducted following an accident or other occurrence that involves one or more of the following:

- A fatality;

- A serious injury;
- Substantial damage to vehicles; and/or
- Substantial damage to other property.

Only employees whose job performance at or about the time of an accident provides reason to believe that such performance may have contributed to the accident shall be determined to be subject to drug testing.

D. Employee Notification

The Mayor shall provide the employee with specific written notice that he/she is being tested for reasonable suspicion. The notice should include the following information.

- A precise and detailed statement describing the relevant circumstances which formed the basis for the decision to conduct a drug test;
- Assurance of the quality of testing procedures;
- Notice of the opportunity to submit medical documentation that may support legitimate use for a specific drug;
- The consequences of a confirmed positive result or refusal to be tested;
- The exact date, time, and location for the test; and
- That the sample will be collected under procedures that preclude manipulation or contamination.

E. Refusal to Undergo a Test

A refusal by an employee may be interpreted as insubordination and subject to appropriate disciplinary action including termination after considering the circumstances for the refusal and the employee's past job performance.

F. Testing

Testing will be conducted at an authorized medical or drug testing center.

G. Positive Results

The presence in the body of alcohol and/or controlled substances shall not be deemed a "positive" result unless the substance present in the body is at or exceeds specific levels.

Positive test results shall be confirmed as described herein.

An employee who tests positive, and said test result is confirmed, shall be subject to temporary suspension with pay until the findings are issued as the result of a hearing described in paragraph J or 10 working days after the employer receives written notice of the test results if the employee waives the hearing provided for in paragraph J. The employee may be referred to counseling and rehabilitation in addition to or in lieu of disciplinary action.

An employee who tests positive, and said test result is confirmed or who is disciplined for refusing to take a test after the agency has requested the employee do so for reasonable suspicion shall be granted a hearing upon request to the Mayor's Office, pursuant to paragraph J.

H. Confirmation of Positive Test Results

Positive screen test results shall be confirmed using a proven reliable test method designated by the Town.

Confirmation tests shall be performed on the same sample from which the initial test was completed.

All confirmation test results shall be interpreted by a qualified physician selected by the Town.

I. Release of Results

The test information will be released to the Town. The information released to the Town will be kept confidential with the employee's file, used by the Town for personnel purposes only, and imparted only on a need-to-know basis. Except as may be necessary to defend or assert a legal right or claim, the Town will not disclose the test information externally unless required to do so by subpoena or court order.

J. Hearings

An employee whose confirmation test result is positive or who was disciplined for refusing to take a test upon request by the Town to do so for reasonable suspicion, shall be granted a hearing, if requested in writing by said employee to the Town Offices, within 10 days from receipt by the employee of the confirmation test results or notice of disciplinary actions for refusing to undergo a test. The hearing shall be conducted by a Review Committee consisting of [three or more individuals appointed by the Mayor]. The hearing shall be held within 10 days from the receipt by the Town Office of the written notice by the employee.

The hearing shall consider facts relating to the reasonable suspicion determination justifying the request to take a test, the reasons for refusing to take the test after being requested to do so, and the test results, if any. The employee may be represented by an attorney.

The Review Committee shall issue written findings supporting a conclusion that the Town has shown or has failed to show, by preponderance of the evidence, that reasonable suspicion

existed to request a test or that the test results, if any, should be accepted after considering the evidence.

If the Review Committee finds that reasonable suspicion does not exist or rejects the test results, if any, the employee shall be restored, without prejudice, to the status the employee had or would have had if no action had been taken, including payment of compensation lost as a result of any disciplinary action.

If the Review Committee upholds the reasonable suspicion determination and the test results, if any, discipline imposed prior to the hearing shall be confirmed; and the Review Committee shall refer the matter to the Town for any additional appropriate disciplinary action in accordance with the applicable policies and procedures.

K. Employer's Right to Amend Policy

The Town reserves the right to amend this policy as necessary.