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DRUG-FREE WORKPLACE AND ALCOHOL POLICY

I. GENERAL POLICY (REVISED 09/13/18)

The Town's Drug-Free Workplace Policy is aimed at ensuring zero tolerance to illegal drugs at all times and its alcohol-free policy to zero tolerance under circumstances that affect or might affect the safety and well being of employees, citizens and others, or that adversely affect or might affect the effective operation of Town operations. This policy has been implemented in accordance with sections 440.101 and 440.102 of the Florida Statutes. In addition, all employees required to have a commercial driver's license (CDL) under Chapter 49 CFR, Part 383 are subject to the controlled substance and alcohol testing rules established by the Federal Department of Transportation under the Omnibus Transportation Employee Testing Act of 1991, in accordance with 49 CFR, Parts 40, 383, 392.4, and 392.5. Regulatory penalties for infractions are in addition to disciplinary action, up to and including termination of employment.

II. PROHIBITIONS

- A. Illegal Controlled Substances. The Town prohibits the use, distribution, possession, manufacture, cultivation, sale or attempt to manufacture, sell or distribute illegal controlled substances at any time whether on or off duty and whether on or off Town property. Illegal controlled substances are defined by applicable state and federal laws. Please be advised that marijuana, even if prescribed for a medical purpose and even if deemed lawful by some states for other purposes, remains an illegal controlled substance under federal law. As such, the Town strictly prohibits the use of marijuana for any purpose.
- B. Alcohol Abuse. Employees of the Town are prohibited from using or possessing alcohol while on duty; while on Town premises; while driving a Town vehicle; while operating a piece of Town equipment; or while being transported in Town vehicles at any time. In addition, employees are prohibited from reporting to work under the influence of alcohol and from otherwise using alcohol in a manner at any time which adversely affects or might adversely affect the interests or operations of the Town.

Note: A sworn employee of the Town Police Department, or an employee acting under the direction of such, may have cause in the course of conducting Town business, to acquire and/or manipulate some form of alcohol or drugs for a duty purpose, and not for other non-job related reasons, and such shall be done in accordance with the officer's assigned duties and in accordance with Police Department Policies.

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III. **DEFINITIONS**

- A. Mandatory Testing Position. Mandatory testing position shall mean a job assignment that requires the employee to:
1. Carry a firearm;
 2. Work closely with an employee who carries a firearm;
 3. Perform life-threatening procedures;
 4. Work with heavy or dangerous machinery;
 5. Work as a safety inspector;
 6. Work with children;
 7. Work with detainees in the correctional system;
 8. Work with confidential information or documents pertaining to criminal investigations;
 9. Work with controlled substances;
 10. Undergo an employee security background check pursuant to section 110.1127 of the Florida Statutes;
 11. Perform job assignments in which a momentary lapse in attention could result in injury or death to another person;
 12. Possess a CDL; or,
 13. Perform safety-sensitive job duties and responsibilities.
- B. Special Risk Position. Special risk position shall mean a position that is required to be filled by a person who is certified under:
1. Chapter 633 of the Florida Statutes (Fire Prevention and Control); or,
 2. Chapter 943 of the Florida Statutes (Law Enforcement).

IV. **LEGAL USE OF PRESCRIPTION AND NON-PRESCRIPTION DRUGS**

- A. The legal use of prescription and non-prescription drugs is often necessary for specific, recognized and accepted medical purposes.

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- B. Misuse– Unless used in accordance with a valid prescription from a medical professional or in accordance with accepted over the counter uses, the Town prohibits the use, distribution, possession, manufacture, cultivation, sale or attempt to sell or distribute prescription and non-prescription drugs.
- C. Required Reporting – In addition, such drugs can and often do have a direct impact on the vigilance, judgment and/or coordination of the employee and adversely affect the employee's job performance and the employee's ability to work in a safe and efficient manner. This is particularly true in safety-sensitive assignments such as those involving the operation of motor vehicles and other moving equipment, for example. Accordingly, employees are required to advise his or her supervisor if he or she is taking prescription or non-prescription drugs which have the potential to adversely impact the employee's job performance or the employee's ability to work in a safe and efficient manner. Upon being notified, the Town will evaluate the impact, if any, the drug has on safe and efficient job performance.
- D. As marijuana remains an illegal controlled substance under federal law, the Town strictly prohibits its use, even if otherwise prescribed for a medical purpose under state law.

V. DRUG AND ALCOHOL TESTING

- A. Job Applicant Testing and Testing for Assignment to Special Risk/Mandatory Testing Position. Applicants for employment in special-risk and/or mandatory testing positions are subject to pre-employment drug and alcohol test as a prerequisite to employment with the Town. Current employees who are assigned to a special-risk and/or mandatory testing position from a non-special-risk or non-mandatory testing position are subject to being tested at the time of the assignment.
- B. Routine Fitness-for-Duty Testing. Employees may be required to submit to drug and alcohol testing as part of any routinely scheduled employee fitness-for-duty medical examinations.
- C. Follow-up Testing. Employees who enter into an employee assistance program or any similar rehabilitation program will be subject to drug and alcohol testing as a follow-up to such program. Follow-up testing will be conducted without advanced notice and at least once per year for a period of no less than two years.
- D. Reasonable Suspicion Testing. An employee will be subject to drug and alcohol testing whenever reasonable suspicion exists to believe the employee is using drugs or alcohol in violation of this policy or otherwise engaging in conduct in violation of this policy. Reasonable suspicion shall be based on specific, objective and articulable facts and reasonable

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inferences drawn from those facts in light of experience. In making this determination, relevant factors may include, but are not limited to:

1. Observable phenomena, such as direct observation of drug use or of physical symptoms or manifestation of being under the influence of a drug or alcohol;
2. Abnormal conduct, erratic behavior or a significant unexplained deterioration in work performance;
3. A report of drug use, provided by a reliable source;
4. Evidence that an individual has tampered with a drug test during his or her employment with the Town;
5. Information that an employee has caused or contributed to an accident or injury while at work;
6. Evidence that an employee has negligently or recklessly operated a vehicle, equipment or machinery while at work;
7. Evidence that an employee has used, possessed, manufactured, cultivated, sold, solicited, or transferred drugs;
8. A pattern of frequent absences from work without a satisfactory explanation.

Supervisors who determine that reasonable suspicion exists to require an employee to submit to a drug and/or alcohol test are required to promptly document in writing the circumstances which formed the basis of the determination that reasonable suspicion existed to warrant the testing.

E. Post-Accident Testing.

1. Mandatory Testing, Safety-Sensitive, and Special Risk Positions: Employees who hold mandatory testing, safety-sensitive or special risk positions (such as Equipment Operators, positions which require a CDL, police officers, firefighters, etc.) may be subject to drug and alcohol testing if he or she is involved in an accident on the job or while operating Town equipment at any time if (1) the employee was partially or wholly at fault, (2) the accident results in personal injury requiring medical attention or (3) results in a legal citation issued to the employee.
2. All Other Positions: All other employees will be subject to drug and alcohol testing when he or she is involved in an equipment or

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vehicular work-related accident, or in any unsafe or negligent maintenance or operation of the Town's equipment or vehicles, which results in personal injury requiring medical attention, where in the opinion of the Town Manager the employee was at fault or his or her conduct contributed to the accident.

- F. Random and/or Suspicionless Testing. Employees who hold special risk or mandatory testing positions are subject to drug and alcohol testing on either a random or a suspicionless basis.
- G. Other Lawful Testing. The Town reserves the right to conduct any other type of lawful drug or alcohol testing. Employees who are subject to the drug and alcohol testing requirements imposed by the Department of Transportation on operators of commercial motor vehicles must fully comply with this policy as well as the DOT-mandated Substance Abuse Policy for Commercial Motor Vehicle Operators. When safety-sensitive CDL employees are being tested pursuant to this policy (i.e., the non-DOT policy), the testing procedures set forth below shall apply. When safety-sensitive CDL employees are being tested pursuant to the DOT-mandated policy, the procedures set forth in that policy shall apply

VI. DRUGS TESTED FOR AND COMMON MEDICATIONS THAT MAY AFFECT RESULTS

- A. Drugs Tested For. Employees will be subject to drug testing for the detection of the following illegal drugs/drug groups, as well as others that may from time to time be declared illegal by state or federal law:
- Alcohol (including a distilled spirit, wine, malt beverage or other intoxicating liquor)
 - Amphetamines
 - Barbiturates
 - Benzodiazepines
 - Cannabinoids (marijuana)
 - Cocaine
 - Methadone
 - Methaqualone
 - Opiates (heroin, morphine, codeine)
 - Phencyclidine (PCP)
 - Propoxyphene
 - Any other hallucinogen, synthetic narcotic, designer drug or a metabolite of any of the substances listed above
- B. Common Medications Which Could Alter or Affect Test Results. Certain prescription and non-prescription medications may alter or affect a drug or

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alcohol test. Employees and applicants that are subject to testing are obligated to confidentially report any prescription or non-prescription medication which could alter or affect test results to the independent Medical Review Officer ("MRO"). The MRO is Dr. Randy Barnett, who can be reached at 100 Highpoint Drive, Suite 102, Chalfont, PA 18914 (Phone: 215-396-5500). Employees and applicants subject to testing have the right to confidentially consult with the MRO for additional or technical information regarding medications which may alter or affect test results. The most common medications which may alter or affect a test include, but are not limited to:

<u>Drug</u>	<u>Medication Which May Alter or Affect Test</u>
Alcohol	Liquid medications containing ethyl alcohol (ethanol). For example many cough syrups, Vicks Nyquil, Comtrex, Listerine contain alcohol
Cannabinoids	Marinol (Dronabinol, Tetrahydrocannabinol (THC))
Amphetamines	Obetrol, Biphetamine, Desoxyn, Dexedrine, Didrex, Ionamine, Fastine
Cocaine	Cocaine HCl topical solution (Roxanne)
Phencyclidine	Not legal by prescription
Methaqualone	Not legal by prescription
Opiates	Paregoric, Parepectolin, Donnagel PG, Morphine, Pectoral Syrup, Tylenol with Codeine, Empirin with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guaiatuss AC, Novahistine DH, Novahistine Expectorant, Dilaudid (hydromorphone), M-S Contin and Roxanol (morphine sulfate), Percodan, Vicodin, Tussi-organidin, etc.
Barbituates	Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorinal, Fioricet, Esgic, Butisol, Mebaral, Butabarbital, Butalbital, Phenrinin, Triad, etc.
Benzodiazepines	Activan, Azene, Clonopin, Dalmane, Diazepam, Halcion, Librium, Xanax, Serax, Tranxene, Valium, Verstran,

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	Paxipam, Restoril, Centrax
Methadone	Dolphine, Metadose
Propoxyphene	Davocet, Darvon N, Dolene, etc.

VII. TESTING FOR ALCOHOL

The Town reserves the right to require an employee to submit to a Breathalyzer or other test when it has reason to believe Section 29.02(B) has been violated:

- Alcohol (including a distilled spirit, wine, malt beverage or other intoxicating liquor)

VIII. TEST RESULTS

The following procedures will be followed if an employee or job applicant has a confirmed positive test result:

- A. An employee or applicant who receives a positive confirmed test result may contest or explain the result to the MRO identified above within five working days. If the MRO determines that the employee's explanation is unsatisfactory, the MRO will report the positive test to the Town. The employee or applicant may contest a positive confirmed test result pursuant to this policy, section 440.102 of the Florida Statutes, or other applicable law. If an employee or applicant seeks to contest the laboratory result, it is his or her responsibility to contact the laboratory to advise of any administrative or civil proceeding challenging the results and to request that the test sample be preserved.
- B. Within 180 days of receiving written notification of a positive test result, an employee or applicant may, at his or her expense, have the positive sample retested at a different laboratory licensed and approved by the Agency for Health Care Administration.
- C. Within five working days after receipt of a positive confirmed test result from the MRO, the Town will inform the employee or applicant in writing of the test result, the consequences of the test result and any options that the Town may elect to afford the employee or applicant in accordance with this policy. Within five working days after receiving notice of a positive confirmed test result from the Town, the employee or job applicant may submit information to the employer explaining or contesting the test result and explaining why the test result does not constitute a violation of this policy. If the Town determines that the explanation is unsatisfactory, the Town will

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provide a copy of the test result to the employee or applicant along with a written reason as to why the explanation was deemed unsatisfactory.

IX. CONSEQUENCES OF A POSITIVE CONFIRMED TEST, A REFUSAL TO SUBMIT TO TESTING OR TAMPERING WITH A TEST

An employee who has a positive confirmed test, who refuses to submit to a test or who tampers with a test is subject to disciplinary action up to and including termination, may forfeit eligibility for workers' compensation medical and indemnity benefits and may forfeit entitlement to unemployment compensation. A job applicant who has a positive confirmed test, who refuses to submit to a test or who tampers with a test will be ineligible for employment.

X. CONFIDENTIALITY

Absent written consent, all information, interviews, reports, statements, memoranda, and drug test results, written or otherwise, received or produced as a result of the Town's drug testing program are confidential, except for employees of the Town with a need to know the information, and exempt from the provisions of Chapter 119 of the Florida Statutes (Public Records Law) and may not be used or disclosed except as otherwise provided by section 440.102 of the Florida Statutes or other applicable law.

XI. EMPLOYEE ASSISTANCE PROGRAMS

The Town has an Employee Assistance Program (EAP) with one of its missions being to assist employees who voluntarily self-report drug or alcohol related problems which have not yet adversely affected their job or Town operations and where the employee reports the matter prior to being asked to take a drug or alcohol test and prior to being found in violation of this policy. The Town may also require any employee in violation of this policy, whether he voluntarily reports his problem or not, to participate in the EAP or other medical and rehabilitative assistance programs as a condition for continued employment.

Employees with drug or alcohol related problems who wish to seek voluntary assistance through the EAP may contact the following EAP providers (or any other similar provider): Resources for Living 1-800-272-3626

Other Helpful Numbers

Drug-Free Workplace Helpline 1-800-Workplace (967-5752)
Substance Abuse & Mental Health Svcs Admin Helpline: 1-800-662-HELP(4357)
Alcoholics Anonymous 1-800-252-6465

- A. Employees Who Voluntarily Ask for Help. Employees with drug or alcohol related problems who wish assistance through the EAP may contact the

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EAP Provider on a confidential basis. If the employee has a satisfactory performance record, the Town may grant the employee an unpaid leave of absence for a period determined by the Town to participate in a Town approved treatment or rehabilitative program. The employee will be responsible for all expenses resulting from the treatment or program to the extent they are not covered by insurance.

- B. Other Employees. In the event the Town discovers a violation of this drug or alcohol policy, or if the Town otherwise discovers an alcohol-related problem that adversely affects or may adversely affect the employee's performance or the Town business, the Town may proceed to discipline the employee up to and including discharge or, at the Town's option, require the employee to undergo approved medical or rehabilitative assistance. The employee will be responsible for all expenses resulting from the treatment or rehabilitation to the extent they are not covered by insurance. In the event the Town requires the employee to participate in the Employee Assistance Program, the EAP provider will keep the Town fully advised with respect to the employee's participation and progress.
- C. Return to Work. Employees who are granted a leave of absence to seek treatment in a rehabilitation program must successfully complete all EAP, medical and other rehabilitative requirements established by the Town for them within a reasonable amount of time, in order to be considered for return to work. The Town, in its sole discretion, will determine whether the employee will be given service credit for any unpaid leave under this policy, subject to applicable law.
- D. Re-Testing. Employees allowed to return to work after participating in a drug or alcohol rehabilitation program shall be subject to re-testing any time without notice and must submit to such test as and when directed by the Town.
- E. Mandatory Testing, Safety-Sensitive, and Special Risk Positions. Employees who hold mandatory testing, safety-sensitive or special risk positions shall not be permitted to remain in such positions while undergoing drug or alcohol rehabilitation.

XII. REPORTING VIOLATION OF THE POLICY

- A. Reporting Violations. It is the obligation of every employee of the Town to report violations of the Town's drug and alcohol abuse policies. Failure to report may subject employees to discipline up to and including discharge.
- B. Any employee who in good faith, based upon reasonable suspicion or observation, reports an alleged violation of these policies, or any supervisory or managerial employee who investigates or take action in good

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faith based on reasonable suspicion or observation shall not be harassed, retaliated against, or discriminated against in any manner for making reports, participating in the investigation or because of any reasonable action he takes as a result of the investigation.

- C. Bad Faith Claims. Any knowingly false reporting of a violation of the policies set forth herein shall subject the employee to immediate termination.

XIII. COORDINATION WITH THE HUMAN RESOURCES DEPARTMENT

All action taken by supervisors under this policy must be coordinated through the Human Resources Department to ensure compliance with all applicable laws.

XIV. REPORTING AND CONVICTION OF ARRESTS AND/OR ALLEGED CRIMES INCLUDING DRUGS OR ALCOHOL

- A. All employees must report to their supervisor any arrest, indictment, conviction, plea or pretrial interventions of any type, of a drug or alcohol-related violation or alleged violation of law not later than the next work day after they become aware of it. Failure to so report may result in immediate termination.
- B. Upon conviction of a crime involving illegal drugs, the employee will be immediately terminated.
- C. Without regard to prosecution or conviction by appropriate governmental entities, the Town may, at its option, conduct its own independent investigation to determine whether this policy has been violated. If, in the opinion of the Town, it believes a violation has occurred, it will take whatever disciplinary action it deems appropriate regardless of the ultimate outcome of any criminal case that may be brought against the employee. The Town shall not be obligated to await the outcome of any pending criminal or legal action prior to taking disciplinary action.