



Alcohol and Drug Testing

.01 Policy

To establish a standard and procedure for testing Town employees involved in motor vehicle collisions while operating Town vehicles or while conducting Town business.

In accordance with the Town of Bladensburg Drug and Alcohol policy and established personnel directives, employees who operate Town owned vehicles or conduct Town business while operating personal vehicles are required to submit to drug and alcohol testing when involved in an accident.

.02 Terms

The term "alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

.03 Governing Legislation and Reference

Governing Legislation:

Accardi Doctrine

Forms:

Authorization for Medical Service (Concentra, Inc.)

.04 Procedure

A. General Provisions

When an employee involved in an accident while conducting Town business the employee is subject to alcohol and drug testing and will be tested when:

- The employee is involved in a single vehicle (departmental) accident and/ or equipment incident resulting in damage or injury occurring on public roadways;
- There is an vehicle accident with damage and/ or injury due to the incident of a vehicle pursuit;
- There is a fatality;
- The Town employee (driver) is cited with a traffic violation;
- There is reasonable suspicion to believe that the employee's behavior or appearance may indicate alcohol or drug use; or
- When an employee sustains a work-related injury requiring medical treatment

A decision not to administer a drug and/or alcohol test shall be based on the Town's determination, using the best available information at the time of the determination that the employee's performance could not have contributed to the accident. Such a decision must be documented in detail, including the decision-making process used to reach the decision not to test..

If possible, post accident alcohol testing should be performed within two (2) hours of the accident. If a test cannot be performed within eight (8) hours, attempts to test shall cease and a written record stating the reasons the test was not performed shall be prepared by the Department Head or a designee and maintained on file.

Post accident drug testing should be performed within 32 hours or not at all. A written record stating the reasons the test was not performed shall be prepared by the Department Head or a designee and maintained on file.

Nothing in this order shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

Reasonable Suspicion Testing

Town departments shall maintain at least a minimum of one supervisory employee who will be trained to detect the use of alcohol or controlled substances. This employee's determination that reasonable suspicion exists to require an employee to undergo an alcohol or controlled substance test shall be based upon specific observations concerning appearance, behavior, speech or body odors of the employee.

Testing shall only be required if the observations are made just prior to, during or just after the period of the work day that the employee is required by the Town to perform a function.

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Testing shall be administered within two hours of the determination that such testing is required. If testing is not conducted within two hours, the department manager or a designee shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If testing is not conducted within eight hours following the determination that such testing is required, attempts to test shall cease and a written record stating the reasons the test was not performed shall be prepared.

A written record shall be made of the observations leading to a controlled substance reasonable suspicion test, and the report shall be signed by the supervisor who made the observations within 24 hours of the observed behavior or before the results of the controlled substances test are released, whichever is earlier.

Follow-up Testing

Employees returning to work following treatment for drug and/or alcohol abuse shall be subject to unannounced follow-up alcohol and/or controlled substance testing as directed by a substance abuse professional. Employees with a follow-up test result indicating an alcohol concentration of 0.02 or greater shall be subject to disciplinary action including probable dismissal from employment. Employees with a follow-up test result indicating a positive controlled substance result shall be subject to termination from employment.

Refusal to Consent

"Refusal to submit to a test" shall include any time an employee (regular, temporary, or probationary), after being notified of the testing requirements;

- fails to provide enough breath for alcohol testing without a valid medical reason;
- fails to provide enough urine for drug testing without a valid medical reason; or
- obstructs the testing process in any other way.

Alcohol Testing

Alcohol testing of employees shall be performed by breath analysis administered by a certified breath-alcohol technician. Testing will be performed for the presence of alcohol in concentrations of 0.02 or greater.

B. Penalties for Positive Alcohol Test Results

Temporary Employees

Temporary and student employees who test at an alcohol concentration of 0.02 or greater shall be subject to immediate termination from employment.

Regular Employees

- Regular employees who are within the probationary period who test at an alcohol concentration of 0.02 or greater shall be subject to immediate termination from employment.
- Regular employees who have successfully completed the probationary period and who test at an alcohol concentration of 0.02 but less than 0.04 will be subject to disciplinary action, including at a minimum an immediate twenty-four hour suspension (one work day) without pay.
- Regular employees returning from a suspension must submit to and pass a return-to-duty breath-alcohol test prior to performing a job function. Any regular employee who tests again at an alcohol concentration of 0.02 but less than 0.04 shall be subject to further disciplinary action, including at a minimum a three day suspension without pay.
- Regular employees returning from a three day suspension must submit to and pass a return-to-duty breath-alcohol test prior to performing a job function. Any such employee that tests at an alcohol concentration of 0.02 but less than 0.04 shall be suspended for not less than two months or dismissed.
- Regular employees who have successfully completed the probationary period and who test at an alcohol concentration of 0.04 or greater shall be suspended for not less than two months or dismissed. Such employees shall be required as a condition of re-employment following suspension to complete an alcohol abuse treatment and education program approved by the Town.

The employee shall be informed in writing of the reasons for the action taken and granted a reasonable opportunity (not less than five working days) to respond to the next Town Administrator prior to the effective date of the disciplinary action; provided however, that under emergency circumstances when

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immediate action is necessary, the employee may be forthwith dismissed, demoted or suspended, with or without pay, by the department head, pending a review by the Town Administrator.

Any such employee shall also be entitled to the procedural protection of the personnel procedures of the Town and the Law Enforcement Officer's Bill of Rights, if applicable.

If, prior to a breath-analysis, an employee notifies his or her department head that he or she has an alcohol abuse problem and is receiving or agrees to receive treatment under an alcohol abuse and education program approved by the Town, such employee shall be retained by the Town for up to one year as long as the employee follows the treatment plan. Retention of such employee shall be conditioned upon satisfactory completion of the program.

Employees returning to work upon completion of treatment for alcohol abuse shall be required to undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 prior to the first instance of work. Employees with a return-to-duty test result indicating an alcohol concentration of 0.02 or greater shall be subject to termination from employment.

C. Controlled Substances Testing

Controlled Substances testing will be performed to evaluate the presence of controlled substances. Evaluation will include, but not be limited to, the presence of cannabinoids, cocaine, opiates, amphetamines, barbiturates, benzodiazepines, propoxyphene, phencyclidine (PCP) or a metabolite of any such substances.

Testing shall be performed by urinalysis administered by a laboratory licensed by the State and approved by the Town.

D. Penalties for Positive Controlled Substances Test Results

Pre-employment

Persons who test positive for any controlled substance in a pre-employment test shall not be employed by the Town.

Temporary Employees

Temporary and student employees who test positive for any controlled substance within

the term of their employment shall be terminated from employment effective upon notification of a positive test result.

Regular Employees

Regular employees who are within the probationary period who test positive for a controlled substance shall be terminated from employment effective upon notification of a positive test result.

Regular employees who have successfully completed the probationary period and who test positive for any controlled substance shall be suspended for not less than two months or dismissed. Suspended employees shall be required as a condition of re-employment following suspension to complete an accredited drug abuse treatment and education program.

Employees returning to work upon completion of treatment for drug abuse shall be required to undergo a return-to-duty controlled substances test with a verified negative result for controlled substances prior to the first instance of work. Employees with a return-to-duty test result indicating a positive result shall be subject to termination from employment.

The suspended or dismissed employee shall be informed in writing of the reasons for the action taken and granted a reasonable opportunity (not less than five working days) to respond to the next highest authority prior to the effective date of the action; provided however, that under emergency circumstances when immediate action is necessary, the employee may be forthwith dismissed or suspended, with or without pay, by the immediate Town Administrator, pending a review by the next highest authority.

The employee shall also be entitled to the procedural protection of the personnel procedures of the Town and the Law Enforcement Officer's Bill of Rights, if applicable.

If, prior to controlled substance testing, a regular, non-probationary employee notifies his or her supervisor that he or she illegally uses a controlled substance and is receiving or agrees to receive treatment under an accredited drug abuse and education program, such employee shall be retained by the Town for up to one year as

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long as the employee follows the treatment plan. Retention of such employee shall be conditioned upon satisfactory completion of the program. No statement made by an employee to a supervisor or other person in order to comply with this policy shall be admissible in any civil, administrative, or criminal proceeding as evidence against the employee. The rights herein granted shall be available to an employee only once during a five-year period.

Employees returning to work upon completion of treatment for drug abuse shall be required to undergo a return-to-duty controlled substances test with a verified negative result for controlled substances prior to the first instance of work. Employees with a return-to-duty test result indicating a positive result shall be subject to termination from employment.

E. Prescription Drug Use

Any employee who is alleged to have violated the Controlled Substance and Alcohol Testing Policy provisions shall have available as an affirmative defense, to be proven by the employee through clear and convincing evidence, that his or her use of a controlled substance (except for methadone) was prescribed by a licensed medical practitioner who is familiar with the employee's medical history and assigned duties. The application of this provision shall be determined by a Town.

An employee using prescription medication while on the job shall do so in strict accordance with medical directions. It is the employee's responsibility to notify the prescribing physician of the duties required by the employee's position and to ensure that the physician approves the use of the prescription medication while the employee is performing his or her duties. The employee shall be responsible for notifying his or her department head of any restrictions that may affect or prevent the safe performance of the required duties.

Employees and job applicants shall, at the time of testing, provide a list of those prescriptions and over-the-counter medications that he or she has recently used. The list of medications shall be kept confidential until there has been a test result. The list of medications shall be disclosed only to the Personnel Officer who will determine whether the positive result was due

to the lawful use of any of the listed medications.

F. Record Retention

The Town is required to maintain records of its alcohol misuse and controlled substance abuse prevention programs. The records shall be maintained in a secure location with controlled access. Such records shall not become a part of an employee's personnel file.

Period of Retention

The following records shall be maintained for a minimum of five years:

- Records of employee alcohol test results indicating an alcohol concentration of 0.02 or greater,
- Records of employee verified positive controlled substances tests results, and
- Documentation of refusals to take required alcohol and/or controlled substances tests.
- Records related to the alcohol and controlled substances collection process and training shall be maintained for a minimum of two years.
- Records of negative and canceled controlled substances test results and alcohol test results with a concentration of less than 0.02 shall be maintained for a minimum of one year.

G. Authorized Alcohol and Drug Testing Laboratory

Concentra, Incorporated	Hours:
8700 Central Avenue	0730-1400 M-F
Landover, Maryland	
(301) 499-4655	
(301) 787-1069 (After Hours)	

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HISTORY: Adopted January 1, 2014

This General Order supersedes all other orders and memoranda in conflict therewith.

Authority:

A handwritten signature in black ink, appearing to read "Charles L. Owens". The signature is written in a cursive style with large, looping letters.

Charles L. Owens
Chief of Police