

TOWN OF CHILMARK DRUG/ALCOHOL SUBSTANCE ABUSE POLICY

1. JURISDICTION

The Town of Chilmark (Town) is committed to providing a safe, healthy, and productive workplace that is free from alcohol and unlawful drugs as classified under local, state, or federal laws while employees are working for the Town, whether on or off its premises.

In furtherance of this commitment, the Town maintains a policy by which it may request or require applicants and employees to submit to alcohol or drug testing in certain situations. This policy is intended to comply with all applicable laws regarding drug and alcohol testing and privacy rights.

The Town expects a drug-free workplace in keeping with the spirit and intent of the Drug-Free Workplace Act of 1988. The improper and excessive use of alcohol and the use of controlled substances is inconsistent with the behavior expected of employees, and subjects all employees and users of Town facilities and the public generally to unacceptable safety risk and undermines the Town's ability to operate effectively and efficiently.

The Town understands that employees may be prescribed legal drugs or take over-the-counter medication that may result in impairment. Nothing in this policy is intended to prohibit the legal use of over-the-counter medication. Individuals who take over-the-counter medication or other lawful medication that can be legally prescribed under both federal and state law to treat an illness or injury should inform their supervisor or department head if they believe the medication will impair their job performance, safety, or the safety of others or if they believe they need a reasonable accommodation before reporting to work while under the influence of that medication. An individual should not report to work if he or she is so impaired. Individuals may use sick leave or vacation time for the absence. Additionally, employees should reach out to Human Resources, the Town Administrator, their supervisor or department head to determine whether or not they qualify for an unpaid leave of absence. The Town is committed to reasonably accommodate qualified disabled employees.

2. PROHIBITED CONDUCT

The unlawful manufacture, dispensing, possession, sale or use of alcohol or unauthorized or illegal drugs, controlled substances, or the misuse of legal,

prescription drugs, in the work place or while engaged in the Town's business on or off the Town's premises and facilities or while the employee is otherwise representing the Town in any capacity is strictly prohibited.

Such conduct is also prohibited during non-working time to the extent it impairs an employee's ability to perform on the job. The Town prohibits employees from reporting to work under the influence of alcohol, illegal drugs or controlled substances. Any employee who is taking medication prescribed by a licensed medical professional that may have an effect on his/her ability to perform his/her job duties in a safe and effective manner must immediately advise his/her manager or supervisor.

An illegal drug is defined under this policy as a controlled substance under any applicable state or federal law, including but not limited to include and drugs on Schedules A, B, C, D and E in Chapter 94C, Section 31, as well as Schedules I-V, as defined by 21 USC §802(6), the possession of which is unlawful under Chapter 13 of Title 21 of the U.S. Code. The term "illegal drug" does not mean the use of a controlled substance pursuant to a valid prescription or other uses as may be authorized by law, but objective evidence of abuse of a validly prescribed controlled substance, however, may be considered for purposes of establishing the requisite impairment while on-the-job.

Employees shall notify the Town of any criminal conviction for an alcohol or drug violation, which shall include any admission of sufficient facts regardless of whether a finding of guilty is involved, no later than five (5) days after the conviction in a Federal or State Court.

3. TESTING

All applicants offered employment with the Town are subject to drug and alcohol testing. Any offer of employment with the Town may be conditioned on the applicant submitting to and successfully completing and passing a drug and alcohol test in accordance with the testing procedures described in this policy.

In accordance with applicable law, an employee may be asked to submit to a drug and/or alcohol test if the employee's supervisor or other person in authority has a reasonable suspicion, based on objective factors such as the employee's appearance, speech, behavior, or other conduct and facts, that the employee possesses or is under the influence of unlawful drugs or alcohol, or both. Such employees may be required to undergo immediate medical evaluation to determine fitness for duty and appropriate drug or alcohol testing. Employees who exhibit signs of impairment during work and/or while on Town property will not be allowed to work

until the Town receives the test results and determines no further action is necessary.

The Town has sole discretion to determine whether any situation warrants testing, and this policy does not prevent the Town from taking action without testing.

The Town reserves the right to require employees to undergo appropriate tests designed to detect the presence of alcohol, drugs or other controlled substances under the following circumstances:

- Following any type of incident or accident on Town property or Town business, whether or not the incident or accident resulted in personal injury, equipment damage, or damage to property of the Town, its employees or others;
- Excessive absenteeism or tardiness;
- Employee conduct of such a nature as to present a danger to the employee or others;
- Criminal involvement in controlled substance offenses;
- On a random basis
- Where the Town has reasonable suspicion to believe that an employee may be under the influence of any of these substances; or
- Where the Town has reasonable suspicion to believe the use of such substances may have affected the employee's judgement, performance or effectiveness.

All drug testing under this policy will be conducted by an independent testing facility licensed by the state. All testing will be done with appropriate regard for accuracy, reliability, expediency, and employee privacy and confidentiality, and in compliance with applicable laws. The Town will pay for the test.

Alcohol testing may be performed by use of a breathalyzer administered by the Police Department or Sheriff's Office.

All records relating to drug and alcohol test results will be kept confidential. The results of drug and alcohol tests shall not be disclosed to anyone who does not have a need to know without the prior written consent of the individual or a court order.

Employees who test positive for use of illegal drugs or under the influence of alcohol will be subject to discipline, up to and including immediate termination of employment. Applicants who test positive for either drug or alcohol use will have their conditional job offers withdrawn. Employees who test positive and are offered an opportunity to return to work may be subject to unscheduled random testing.

4. DISCIPLINARY ACTION

Employees who violate this policy may be subject to disciplinary action up to and including discharge as provided below.

With the exception of public safety employees (police, fire and Ambulance/EMS), employees who violate this policy for the first time shall be permitted to successfully complete a substance/alcohol abuse rehabilitation program approved for such purposes in lieu of discipline and as a condition of continued employment. Proof of successful completion will be required. Such rehabilitation program will apply only to the first offense and any subsequent violation will result in discipline. The rehabilitation program will not apply to any employee who has engaged in violence or other conduct or activity resulting in actual or threatened personal injury, equipment damage, or damage to property of the Town, its employees or others.

Individuals who refuse to submit to testing as required by the Town or who fail to complete the test will be subject to discipline, up to and including suspension or immediate termination of employment. The Town will not consider applicants who refuse to submit to drug and alcohol testing for employment.

5. FOLLOW UP TESTING

Where an employee has violated the Town's drug or alcohol policy and later returns to duty (after completing a rehabilitation program), unannounced follow-up tests may be conducted for up to 60 months.

The Town may require employees involved in any work-related accident or incident involving the violation of any safety or security procedures to submit to drug and alcohol testing, in accordance with applicable law. This policy applies even if the incident did not result in injury to any person or any property damage.

If you have any questions regarding this policy or if you have questions about alcohol and drug testing in the workplace that this policy does not address, please contact the Human Resources Department.

6. TESTING PROCEDURE

~~All testing will be conducted under procedures approved by Massachusetts law.~~

~~The costs of all tests, except for independent retest, shall be borne by the Town.~~

~~The records of all test results shall be kept in the confidential medical files maintained by the Town in accordance with the applicable provisions of 49 CFR 382.401 (a) and (b) as amended.~~