



## Alcohol and Substance Abuse Policy

Revision/Board Approval September 13, 2021

### **I. Purpose**

It is the policy of the Town of Landis to establish and maintain an alcohol and drug-free workplace in order to provide a safe, healthy, and effective work environment for its employees and to protect the citizens that it serves. This policy shall govern all Town employees. Specific requirements for DOT covered employees are set out in this policy.

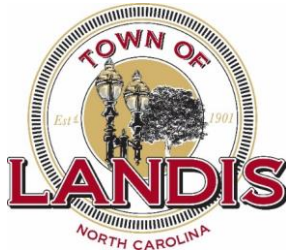
### **II. Applicability**

1. All applicants who have been offered employment must undergo a drug screen test as part of the hiring process. This includes applicants applying for full-time, part-time, temporary, seasonal, auxiliary and volunteer.
2. All employees are covered under this Alcohol and Substance Abuse Policy and are subject to post-accident or post-incident testing.
3. Employees serving in positions determined to be safety sensitive are subject to random and follow-up testing when applicable. Safety sensitive positions in the following categories are subject to random or follow-up drug and alcohol testing; Public Safety, Fire, Police, Water, Sewer and Electric.
4. Employees who must hold a Commercial Driver's License (CDL) as a requirement for the job are subject to random and follow-up testing as required by the U.S. Department of Transportation, if applicable.
5. Employees who are transferring to safety sensitive positions are subject to testing when transferred as well as random and follow-up testing when applicable.

### **III. Prohibited Conduct for All Town Employees**

The following act or conduct is considered prohibited and violates the Town's Alcohol and Substance Abuse Policy. Any violations of following will result in disciplinary action up to and including termination.

1. Possession, consumption, manufacturing, distribution or being under the influence of an unauthorized controlled substance, an illegal drug, drug paraphernalia, or alcohol while on duty, on Town property, in a Town-supplied vehicle or in any Town work area. This is to include any alcoholic beverage, narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, or any other controlled substance as defined in 21 USC § 812, and as further defined in federal regulations at 21 CFR § 1309.15 and in NCGS 90-86 et. seq. Law enforcement officials shall be notified, as appropriate, where criminal activity is suspected.



2. The Town of Landis prohibits the use of alcoholic beverage by any employee:
  - a. During work hours including lunch time and breaks;
  - b. While operating town equipment (including vehicles);
  - c. At any time the employee is acting in the course and scope of his or her employment with the town, except while attending business, social and other functions. The business or social situations would normally occur after work hours and the employee would not be returning to his or her normal work site. This would not preclude an employee's return to work on an emergency need basis as long as current state driving standards are met;
  - d. When on-call;
  - e. At any other time that the employee's use of alcoholic beverages has or may have a direct and adverse effect upon the performance of his or her job.
3. The town prohibits the use of alcohol or controlled substances including prescriptions and lawful non-prescription medications by an employee while operating town equipment and vehicles or when acting in the course and scope of his or her employment with the town when the use has a direct and adverse effect upon the safe operation of the equipment, vehicle or on the performance of his or her duties. Employees are required to report the use of any substance which carries a warning label that indicates that mental functioning, motor skills or judgment may be adversely affected to their supervisor prior to work.
4. The town prohibits the use of illegal drugs or abuse of prescription drugs for which the employee does not have a doctor's prescription.

#### **IV. Authority to Test Employees**

Pursuant to this policy the following persons are required to submit to testing for the presence of alcohol and controlled substances as stated in the Controlled Substance Examination Regulation Act (CSERA). (N.C. Gen. Stat. Ann §95-230 and 13 N.C. Admin. Code 20.0101 to 20.0602)

1. The final applicant selected for a Town position as a pre-employment condition. Testing is for controlled substances only.
2. Employees holding safety-sensitive positions are subject to random testing.
3. All current employees who apply for or are given an assignment, promotion, or transfer to a safety-sensitive position.



4. An employee in a safety-sensitive position who is involved in a traffic accident or violation while operating a Town owned vehicle or a personal vehicle while performing his or her duties as a Town employee and there is reasonable suspicion to believe that he or she is in violation of this policy by observed actions or physical evidence while performing his or her duties as a Town employee.
5. Any employee involved in an on-the job accident or incident where:
  - a. Death results;
  - b. Any person is injured and is transported from the accident scene for medical attention;
  - c. A vehicle must be towed from the scene; or
  - d. The employee is cited for a moving violation.
6. Any employee when there is reasonable suspicion to believe that he or she is in violation of this policy by observed actions or physical evidence while performing his or her duties as a Town employee.

#### **V. Drug Screening Criteria**

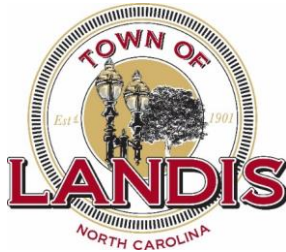
The Town of Landis will consider an employee for a drug screening test under the following circumstances;

1. Pre-employment  
Applicants determined to be the final candidate for a full-time, part-time, seasonal or volunteer position will be required to submit to a pre-employment drug-screening test. The Town will include notice of pre-employment drug screening in job announcements and on the Town of Landis Employment Application. The applicant shall report to the designated site for testing as directed by the Human Resources Officer. Applicants to be tested are required to sign the drug screening consent form. The Town will withdrawal an offer of employment made to any applicant whose drug screening test reveals the presences of illegal drugs or prescription drugs without valid prescription. Failure of a pre-employment drug screening will disqualify the applicant for employment for a period one year from the date of testing.
2. Random Testing  
Employees that occupy safety-sensitive positions or DOT regulated employees are subject to random drug testing. Such testing methods are unannounced and will be coordinated by the Human Resources Officer. Random screening will be chosen by a method that provides an equal probability that any employee from the group of employees will be selected. The Human Resources Officer shall notify the affected employee's supervisor of the time and place the employee should report for testing. Separate employee pools are maintained for DOT and Non-DOT Town drivers. A supervisor will NOT give an employee advance notice of unannounced testing, but shall notify the affected employee on the day of the testing and just prior to the employee being tested. The employee shall proceed immediately to the collection site.



Safety-sensitive positions for the Town of Landis are defined as:

- a. All sworn law enforcement personnel;
  - b. All Certified Fire Department personnel;
  - c. Positions (full-time and part-time) requiring the consistent and frequent operation of heavy equipment or motor vehicles as a primary task;
  - d. Positions working around large equipment or with potential for hazards;
  - e. Positions working with youth/or those required to drive other persons;
  - f. Positions requiring the handling of hazardous materials, the mishandling of which may place the employee, fellow employees, or the general public at risk of serious injury, or the nature of which would create a security risk in the workplace; and
  - g. Other positions as required by law, or as designated by the Human Resources Officer, due to the specific safety-sensitivity of the individual jobs.
3. Promotion to a Safety-Sensitive Position
- a. The HR Officer shall explain the drug testing requirements to all current employees who apply for assignment, transfer or promotion to a safety-sensitive position.
  - b. Promotion to a position shall be denied to any applicant who refuse to submit to the test, receives a positive test result, or otherwise violates this policy.
  - c. A negative test result does not guarantee that a current employee will be promoted to the position for which he or she applied.
  - d. Supervisors for employees being promoted are responsible for ensuring that such employees have completed the required drug testing prior to promotion or assignment.
4. Post-Accident
- a. All employees including Full-time, Part-time, Seasonal, Auxiliary, or Volunteer may be required to submit to a drug and alcohol test based on the potential cause of the accident or incident. This decision will be made at the discretion of the supervisor and HR Officer. The supervisor shall provide or arrange appropriate transportation for testing. Testing will be required for accidents or incidents that result in death, injury to any person that requires being transported from the accident scene for medical attention, a vehicle is towed from the scene or the employee is cited for a moving violation.
  - b. An employee is required to submit to drug and alcohol testing following an accident or moving traffic violation must make himself or herself available for testing within three hours of the accident or violation. Failure to be available within such time will be considered refusal to submit to testing, unless there is a clear hindrance. For example, an employee with life-threatening injuries that could result in death. It is important to emphasize that nothing is to prevent the individual from receiving required medical attention.



c. If a vehicle operator who is required to submit to drug and alcohol testing following a vehicle accident is unable to report to the regular testing site due to injuries, and drug and/or alcohol testing is conducted pursuant to NCGS 20-16.2 or pursuant to medical treatment, the vehicle operator shall provide the HR Officer with an authenticated record of the results of testing.

#### 5. Reasonable Suspicion Testing

All employees, regardless of their safety-sensitive status, can be tested for alcohol or drugs based on reasonable suspicion. In making such determination, the Town may consider, but is not limited to considering, any of the following factors:

- a. Direct observation of prohibited drug or alcohol use;
- b. Possession of drugs or alcohol;
- c. Odor of marijuana or alcohol about the person;
- d. Slurred speech, inability to walk a straight line, poor motor coordination or muscle control, tremors, or nervousness;
- e. Bloodshot or dull eyes dilated or constricted pupils, runny nose, bruises;
- f. Behavior that is inconsistent with the employee's nature to include but not limited to; mood swings, depression, confusion, disorientation, lack of coordination, personality changes, irrational behavior, significant increase in energy, unusual talkativeness or sleepiness, impaired short-term memory or illogical thinking;
- g. Physical or verbal altercation;
- h. Changes in appearance, grooming, demeanor, work habits or interaction with others;
- i. Excessive absenteeism or tardiness, frequent or increased illness, frequent absences from workstation or lapses in responsibility;
- j. A pattern of abnormal conduct or unusual, irrational, or erratic behavior
- k. Reports of substance abuse from a reliable and credible source;
- l. Arrest for violation of any criminal drug or alcohol statute.

The supervisor will complete the Observation of Suspect Behavior Form with detailed information on facts, symptoms, and observations of the reasonable suspicion and contact the HR Officer. The HR Officer will determine whether to order testing and notify the employee's supervisor. The supervisor will arrange transportation of the employee to and from the testing site. Any documentation supporting reasonable suspicion will be retained in the employee's confidential file by the HR Officer.

Non-law enforcement personnel shall not use physical force to detain an employee. At any time a supervisor has reason to suspect that an employee is using or is under the influence of alcohol or a controlled substance while performing their duties, while driving a town owned vehicle, or while on town property and the employee indicates their intention to leave the premises by his or her own means, the supervisor must notify law enforcement officials regarding the employee's identity, possible impairment and the employee's anticipated route of travel.



6. Testing Pursuant to State or Federal Laws, Rules, or Regulations

Town employees who are subject to federal or state mandated substance abuse testing including but not limited to Department of Transportation regulations, will be tested pursuant to such testing requirements notwithstanding this Alcohol and Substance Abuse Policy.

**VI. Specimen Collection/Testing Procedures**

All alcohol or drug testing of employees and applicants shall be conducted in compliance with the Controlled Substance Examination Act, Article 20 of Chapter 95 of the North Carolina General Statutes. To be considered a testing site, a medical facility or lab should have:

- a. Testing procedures which ensure privacy to employees and applicants consistent with the prevention of tampering;
- b. Methods of analysis which ensure reliable test results, including the use of gas chromatography or mass spectrometry to confirm positive test results;
- c. Chain of custody procedures which ensure proper identification, labeling, and handling of test samples; and
- d. Retention and storage procedures which ensure reliable results on confirmatory test of original samples.

The authorized provider shall determine the procedures for the collection of blood, split sample of urine, saliva, breath or other scientific samples in accordance with applicable Town polices and state and federal laws, rules, and regulations. All blood or urine samples shall be submitted to an SAMHSA approved laboratory for analysis, and the authorized provider shall communicate final test results to the HR Officer.

**VII. Test Results**

1. Negative Test Results

- a. If the drug screening test results is negative, the laboratory will so advise the HR Officer who will inform the employee or applicant.
- b. A blood, urine, saliva, breath or other sample that, after initial testing, does not reveal the presence of a controlled substance at or above the threshold values designated by SAMHSA or an alcohol content level below 0.04% shall be considered to have tested negative, and no further testing may be done on that sample. For a DOT drug test, the verified presence of the identified drug or it's metabolite below the minimum levels specified in 49CFR, Part 40, as amended, and the specimen is a valid specimen shall be considered to have tested negative. A DOT regulated alcohol or drug test may only use urine, saliva and breath sample.



## 2. Positive Test Results

If the alcohol or drug screening test is positive, the laboratory will so advise the HR Officer and the following action shall be taken:

- a. A job applicant shall be informed of the positive test results by the HR Officer and the Conditional Offer of Employment has been withdrawn. The applicant will be given written notice regarding their rights for retesting under NCGS 95-232(f). An applicant who receives confirmed positive test shall not be considered for employment for any position for a period of one year from the testing date. Employment decisions based on drug screening test results are irrevocable and appeals will not be considered.
- b. A current employee shall be informed of the positive test result by the HR Officer who will also inform the Town Manager. A private meeting with the employee will be held with the HR Officer, Department Head and Town Manager to discuss the employee's rights and responsibilities regarding retesting under NCGS 95-253(f). Split sample testing is at the employee's expense.
- c. A blood, urine, saliva, breath or other sample that, after confirmatory testing, does reveal the presence of a controlled substance at or above the threshold values designated by SAMHSA or an alcohol level at or above 0.04% shall be considered to have tested positive. An employee with a confirmed alcohol test result of between 0.02% and 0.039% will be deemed unfit to perform his or her duties and sent home. For DOT drug test the verified presence of the identified drug or its metabolite at or above the minimum levels specified in 49CFR Part 40, as amended, shall be considered to have tested positive. A DOT regulated alcohol or drug test may only use urine, saliva, and breath sample.

## VIII. Refusal to Test/Penalties for Refusal

Any of the following is considered a refusal to test:

1. Refusing to sign the consent form, complete the medication form, or submit to a drug test;
2. Engaging in conduct that clearly obstructs the testing process;
3. Adulterating, contaminating, or tampering with a blood, urine, saliva, breath, or other sample;
4. Failing to report to the designated test site as directed; or
5. Failing to remain available for required testing.

An applicant who refuses to submit to a drug test pursuant to this policy will *not* be considered for employment with the Town.

An employee who refuses to submit to an alcohol or drug test required pursuant to this policy shall be subject to disciplinary action up to and including termination.



**IX. Disciplinary Action for Non-Compliance**

An employee who violates this policy shall be subject to disciplinary action up to and including termination as described in the Town of Landis Personnel Policy. Employees may be placed on administrative leave with or without pay while awaiting the disciplinary process.

1. Employees who receive a positive drug or alcohol test result will be dismissed.
2. For DOT regulated employees, the Town shall not take an action based solely on test results showing an alcohol concentration of less than 0.02%

**X. Confidentiality**

1. Any test for the presence of alcohol or controlled substances authorized by this policy shall be designed to protect the privacy of the applicant or employee being required to undergo the testing. All tests for the presence of alcohol or control substance shall be conducted pursuant to and in compliance with the Controlled Substance Examination Regulations found in NCGS Chapter 95, Article 20.
2. No sample obtained for the purpose of conducting tests for the presence of alcohol or controlled substance pursuant to this policy shall be used to perform any diagnostic examination that would detect any hidden or latent physical or mental infirmity, disease, or condition. Rather, the analysis of such sample shall be confined to such procedures as are devised to detect the presence of alcohol or controlled substances.
3. All information obtained in the course of testing, examining, counseling, rehabilitating, and treating applicants or employees pursuant to this policy shall be protected as confidential medical information. Documents or data concerning this information shall not be opened to inspection pursuant to NCGS 153A-98 by persons other than the affected applicant or employee and shall be disseminated only on a need-to-know basis and at the express direction of the Human Resources Officer or to comply with applicable laws.
4. Drug Test results from the City’s drug testing program may not be used as evidence in a criminal action against an applicant tested except by order or a court of competent jurisdiction.

**XI. Drug Free Awareness Program**

The HR Officer will provide information regarding this policy and a drug free workplace to employees, to include the following:

1. The dangers of drug abuse in the workplace;
2. The Town’s policy of maintain a drug free workplace
3. Available alcohol or drug counseling, rehabilitation, and employee assistance programs;
4. The penalties that may result for violation of this policy;



5. Employee Assistance Program:  
McLaughlin Young Group  
5925 Carnegie Blvd., Suite 350  
Charlotte, NC 28209  
(800) 633-3353 or (704) 529-1428  
(704) 529-5917 Fax

Supervisors will receive information on this policy and how to detect the use or abuse of alcohol and controlled substances.

The Human Resources Officer will make this policy available to each employee.

## **XII. Responsibilities and Duties of Employees**

The following are consider the responsibilities and duties of the employee in regards to the Alcohol and Substance Abuse Policy for the Town of Landis. Failure to comply with these responsibilities and duties may result in disciplinary action up to and including termination.

1. As a condition of initial and continuing employment, each employee shall:
  - a. Comply with the terms of this policy and any rules and procedures promulgated thereunder;
  - b. Notify his or her supervisor in writing of any conviction pursuant to any criminal drug or alcohol statute no later than five days after such conviction. For purposes of this policy a plea of guilty, no contest, or nolo conterndere is a conviction;
  - c. Notify his or her supervisor immediately of an arrest or other action relating to criminal drug or alcohol statutes when at work or when his or her work or ability to work may be impacted.
  - d. A violation that occurs in the workplace may result in termination of employment.
2. Within ten days of receiving actual notice of an employee's conviction of any criminal drug statute for a violation occurring in the workplace or within the course and scope of employment, the town shall notify any federal granting agency from which the town receives a grant regarding such conviction in accordance with the Drug Free Workplace Act of 1988.
3. Any employee who voluntarily seeks assistance for a problem regarding alcohol or drug abuse shall be encouraged to participate in an alcohol or drug abuse assistance or rehabilitation program. Voluntary admission is not considered a positive test result. Once a person has been selected for testing, it is too late to step forward and seek assistance. Town permitted drivers will not be allowed to drive until cleared to do so. DOT drivers and others with primarily driving responsibilities will be placed on administrative leave without pay until cleared to return. An employee may elect to use accrued paid leave or leave without pay if accrued paid leave is unavailable. This will include follow up testing as specified under 49 CFR Part 40.



4. A supervisor or department head who has reason to believe that an employee has violated a criminal drug or alcohol law shall contact the Human Resources Officer to determine possible appropriate action. Any town reports made to law enforcement officials or town cooperation in investigations or prosecutions of town employees conducted by state, federal, or local law enforcement officials pursuant to criminal drug or alcohol laws must be in accordance with NCGS 153 A-98, Privacy of Employee Records
5. No person shall discriminate or take any retaliatory action against an employee because the employee, in good faith: makes a report pursuant to this policy, cooperates in an ensuing inquiry or investigation, testifies in a proceeding resulting from a report, or otherwise participates in the enforcement of this policy.
6. The Town of Landis is dedicated to assuring fair and equitable application of this alcohol and substance abuse policy. Therefore, supervisors/department heads are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisors/department head who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action up to and including termination.
7. It is the responsibility of all Town of Landis employees to be aware and understand the harmful effects, dangers and impacts of the use and abuse of alcohol and controlled substances in the workplace. Employees working under the influence of alcohol or controlled substances may create unsafe conditions for themselves and others and may discredit the town and cause disrespect for the employee, the town and the citizens we serve. As an employee it is your responsibility to speak up if you see someone under the influence while at work. Report any suspicious activity to your supervisor immediately.



## Appendix

### Employees Covered by Department of Transportation (DOT) Regulations

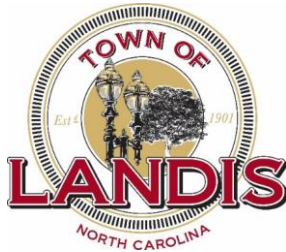
Together with other Alcohol and Substance Abuse Policy/Drug Free Workplace requirements employees covered by DOT regulations must comply with this appendix.

1. DOT Federal Motor Carrier Safety Administration covered employees and functions. Employees who drive or operate a commercial motor vehicle (CMV). The Federal Motor Carrier Safety Administration (FMCSA) has interpreted driving a CMV on a road, street, or way which is open to public travel. Employees who drive or operate a CMV must hold a valid appropriate commercial driver's license. FMCSA safety-sensitive functions(s) are defined as and include all time from the time an employee begins works, or is required to be in readiness to work, until the time the employee is relieved from work and all responsibility performing work. Safety-sensitive function shall include:
  - a. All time at a carrier or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer. This includes employees who are "eligible" at work to drive CMV at any time, e.g., salespersons, clerks, secretaries, supervisors;
  - b. All time inspecting equipment as required by 49 C.F.R.392.7, "Equipment, Inspection, inspecting, servicing, or conditioning any CMV at any time;
  - c. All driving time, which is any time spent at the driving controls of a CMV in operations;
  - d. All time other than driving time, in or upon any CMV except time spent resting in a sleeper berth;
  - e. All time loading or unloading a vehicle, supervising or assisting in loading or unloading, attending a vehicle being loaded or unloaded, remaining ready to operate the vehicle, or giving or receiving receipts for shipments loaded or unloaded;
  - f. All time repairing, obtaining assistance for, or remaining with a disabled vehicle.
2. Applicants and all current employees who apply for assignment, transfer, or promotion to a DOT regulated position must sign an Authorization for Release of Personal Information Form for the release of alcohol and drug testing data compiled by previous employers covered by 49 CFR Part 40 and provide the Town information about drug and alcohol violations. Departments that have DOT regulated positions will contact Human Resources for guidance in obtaining this information.
3. All drug and alcohol testing will be conducted in accordance with 49 CFR Part 40, as amended. Additionally all DOT employees will be tested in accordance with Part 382. A drug test can be performed any time a DOT regulated employee is on duty. A DOT alcohol test can be performed just before, during, or after the performance of a DOT safety-sensitive function. Amphetamines (ecstasy,



methamphetamine), marijuana (hemp), cocaine (crack), opiates (heroin), phencyclidine (PCP) can be tested at any time while on duty.

4. DOT regulated employee are prohibited from the use or possession of alcohol while on duty or in uniform, while on-call to perform safety sensitive duties, and four hours prior to duty. Alcohol use is also prohibited by any covered employee required to submit to post-accident alcohol testing for four hours following the accident or until the alcohol test is performed.
5. DOT regulated employees must complete a DOT pre-employment drug test when hired for, or transferred to, a DOT covered position. The candidate must produce a negative drug test result prior to first performing a safety-sensitive duty. If the test is canceled, the employee must retake and pass the test before being hired. Failure of a town pre-employment screen will disqualify the applicant from employment for one year. Any covered employee or applicant who has provided proof of having successfully completing a referral, evaluation, and treatment plan by a substance abuse professional as describe in 49 CFR Part 655.62. A covered employee who has not performed a safety sensitive duty for 90 consecutive days or more and has been in the employer's random selection pool shall take a pre-employment drug test with a verified negative result before returning to safety-sensitive duties.
6. Together with other accident testing which may be required by the town, DOT regulated employees must complete DOT drug and alcohol tests as soon as possible after they are involved in an accident while operating a city owned or leased vehicle, if the accident involves;
  - a. DOT accident requiring testing: An accident in which a fatality is involved; one or more motor vehicles are towed from the scene or someone is treated medically away from the scene, and a citation is issued to the CMV driver within 8 hours of the occurrence under state or local law for a moving violation arising from the accident and either of the aforementioned situations occur.
7. All DOT covered employees must remain readily available for testing after an accident including notifying the employer representative of the employee's whereabouts. Failure to do so will be considered a test refusal. Testing is stayed while the employee assists in the resolution of the accident and receives medical attention.
8. DOT regulated employees must complete random DOT drug and alcohol tests from a selection pool that includes only DOT regulated employees. Alcohol testing must occur just before, during, or just after the performance of their covered duties. Random selections will be made at a minimum of a quarterly basis by a scientifically valid computer program. The random tests will be spread reasonably throughout the year during all hours and days in which safety-sensitive functions are performed. All covered employees will have an equal chance of being selected each time selections are made. Testing will be unannounced and the employee must proceed immediately after being notified of the testing requirement.



9. DOT regulated employees may also be subject to drug and alcohol testing upon reasonable suspicion of probably drug or alcohol use using non-DOT testing forms. Reasonable suspicion determinations will be made by one or more trained supervisors that can articulate and substantiate physical, behavioral, and performance indicators of probably drug use or alcohol employee. Reasonable suspicion testing can be conducted just before a DOT regulated employee performs safety-sensitive duties, during the performance and just after an employee has performed covered duties.
10. A result of 0.04% or higher on the DOT alcohol test is a positive test result. DOT regulated employees with a DOT alcohol test result between 0.02% and 0.039% are prohibited from performing their safety sensitive related duties for a period of 24 hours or one shift, whichever is longer. Employee must submit to and be cleared prior to resuming work.
11. DOT regulated employees who receive a positive DOT drug or alcohol test result will be terminated, informed of educational and rehabilitation programs available, and referred to a Substance Abuse Professional (SAP) for assessment. The DOT regulated employee is responsible for any incurred costs associated with educational and rehabilitation programs or SAP assessments.
12. Specimen validity testing will be conducted on all urine specimens for testing under DOT authority. Specimen validity testing is the evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants of foreign substances were added to the urine, if they urine was diluted or if the specimen was substituted.
13. If a covered employee provides a negative dilute test result they will be required to undergo a second test. If the second test is negative dilute it will be considered negative and no further testing is required.
14. Any covered employee who questions the results for a required drug test may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer (MRO) within 72 hours of notice of the original sample verified test result. Request after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. The employee will pay for the cost of split sample testing.
15. Refusal to submit to a drug/alcohol test shall be considered a positive test result and a direct act of insubordination and shall be subject to disciplinary action up to and including termination and referral to SAP. A test refusal includes the following circumstances:



- a. A covered employee who leaves the scene of an accident without a legitimate explanation prior to submission to drug/alcohol tests.
- b. A covered employee who provides an insufficient volume of urine specimen or breath sample without a valid medical explanation. The medical evaluation shall take place within five days of the initial test attempt.
- c. A covered employee whose urine sample has been verified by a MRO as substitute or adulterate.
- d. A covered employee fails to appear for any test within reasonable time, as determined by the employer, after being directed to do so by the employer.
- e. A covered employee fails to remain at the testing site until the testing process is complete.
- f. A covered employee fails to provide a urine specimen for any drug test required by Part 40 or DOT agency regulations
- g. A covered employee fails to permit the observation or monitoring of a specimen collection.
- h. A covered employee fails or declines to take a second test the employer or collector has directed you to take.
- i. A covered employee fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the employer as part of the “shy bladder” or “shy lung” procedures.
- j. A covered employee fails to cooperate with any part of the testing proceeds (e.g., refuse to empty pockets when so directed by the collectors; behave in a confrontational way that disrupts the collection process).
- k. Failure to sign the Alcohol Testing Form.
- l. Failure to follow the observer’s instructions during an observed collection including instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
- m. Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
- n. Admit to the collector or MRO that you adulterated or substituted the specimen.

16. If a DOT regulated employee is directed to submit to a collection under direct observation in accordance with 49 CFR Part 40.67, the policy administrator or supervisor must explain to the employee the reason for a directly observed collection. Circumstances requiring direct observation include:

- a. All return to duty test
- b. A follow-up test
- c. Anytime the employee is directed to provide another specimen because the temperature on the original specimen was out of the acceptable temperature range.
- d. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been an attempt to tamper with.



- e. Anytime a collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen.
  - f. Anytime the employee is directed to provide another specimen because the laboratory reported to the MRO that the original specimen was invalid and the MRO determined that there was not an adequate medical explanation for the results.
  - g. Anytime the employee is directed to provide another specimen because the MRO determined that the original specimen was positive, adulterated, or substituted, but had to be cancelled because the test of the split specimen could not be performed.
17. The Town of Landis will notify North Carolina Division of Motor Vehicles within five business days of the date that a DOT regulated employee tests positive or refuses to participate in a drug or alcohol test required under 49 CFR Part 382 and 655, in accordance with NCGS 20-37.19.



## Glossary of Terms

1. Alcohol Test – Any accepted scientific means to determine the presence of alcohol, including but not limited to laboratory analysis of urine, blood, or hair. A DOT regulated alcohol test may only use saliva and breath.
2. Authorized Provider – A company or organization that has been authorized to conduct alcohol and controlled substance testing of city employees in compliance with this policy.
3. BAT (Breath Alcohol Technician) – A trained and certified individual who determines a breath alcohol test result.
4. The Town of Landis Permitted Operators – Authorized persons who drive a town vehicle for any purpose and/or whose job responsibilities require driving a privately owned vehicle on town business; required to have an Operator’s Permit to comply with Fleet Policy.
5. CFR – Code of Federal Regulations
6. Commercial Motor Vehicle (CMV) – A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:
  - a. Has a gross combination weight rating of 26,001 pounds or more, inclusive of a towed unit(s) with a gross vehicle weight rating of more than 10,000 pounds;
  - b. Has a gross vehicle weight rating of 26,001 pounds or more;
  - c. Is designed to transport 16 or more passengers, including the driver;
  - d. Is of any size and is used in the transportation of hazardous materials as defined in the Hazardous Transportation Material Act and which requires the motor vehicle to be placarded under the Hazardous Materials Regulations.
7. Controlled Substance – A drug, substance, immediate precursor, or metabolite of a drug or substance included in Schedule I through V of the Comprehensive Drug Abuse Prevention and Control Act (21 USC 801 et seq.) and its amendments.
8. DOT Regulated Employee (DOT Employee) – Employees with duties regulated by the Department of Transportation (DOT), Federal Motor Carrier Safety Administration (FMCSA), and Federal Transit Administration (FTA).



9. Drug Test or Screening – Any accepted scientific means to determine the presence of controlled substances, including but not limited to laboratory analysis of urine, blood, or hair. A DOT regulated drug test may only use urine.
10. Employee – Any person employed (whether full-time, part-time, auxiliary, volunteer or seasonal) by the town considered an employee in accordance with IRS regulations.
11. Illegal Drugs – Substances that are (1) not legally obtained; (2) legally obtainable but have been obtained or used in an unlawful manner or in a manner other than as prescribed and directed by an employee’s treating physician or the manufacturer; (3) so called “designer drugs,” “look-a-likes,” “synthetic drugs,” and similar substances, even if not specifically prohibited by state or federal law; (4) substances which are inhaled, injected, ingested or absorbed, but which are not intended for human consumption (such as glue, solvents, or patches), even if not specifically prohibited by state or federal law. Examples of illegal drugs include (but are not limited to) Marijuana (THC), Cocaine, Amphetamines (Amphetamine, Methamphetamine, MDMA, MDA), Opioids (Codeine, Heroin, Morphine, Oxycodone, Oxymorphone, Hydrocodone, Hydromorphone), Phencyclidine (PCP).
12. Lawful Drugs – Those prescribed or over the counter medications that are lawfully obtained and used as prescribed and directed by an employee’s treating physician or the manufacturer’s recommendations or for the purpose and in the manner for which prescribed or manufactured.
13. MRO (Medical Review Officer) – A licensed physician trained to make the final determination of whether a test for the presence of a controlled substance is positive or negative.
14. Metabolite – The chemical or compound produced when a particular substance is passed through the human body and excreted in the urine.
15. NCGS – North Carolina General Statutes.
16. Non-DOT Safety Sensitive Position – Position with duties that involve such a significant risk of injury to others that even momentary lapse of attention can have disastrous consequences. These positions are identified by human resources based on duties and responsibilities of the employee. Included are law enforcement officers, fire personnel, public safety officers, employees operating a vehicle owned by the town or a personal vehicle which is used as a major part of their work, employees working with hazardous chemicals, employees working with heavy equipment and employees working within Water, Sewer and Storm Water positions. Employees are advised if they occupy a safety-sensitive position.
17. Policy Administrator – The human resources director or designee is responsible for the administration of the Town of Landis Alcohol and Substance Abuse Policy.



18. Positive Alcohol Test – Identification of an alcohol content level at or above 0.04% by use of an alcohol test.
19. Reasonable Suspicion - A decision for alcohol or drug testing based upon specific contemporaneous, articulable observations concerning the appearance, behavior, speech, body odors or performance of the employee.
20. Retaliatory Actions – The discharge, suspension, demotion, relocation, or other adverse employment action taken against an employee in the terms, conditions, privileges, and benefits of employment.
21. DOT Safety-Sensitive Position – Defined by Federal Transit Administration or FTs, DOT regulated employees. The Town of Landis also defines safety-sensitive as a position with duties that involve such a significant risk of injury to others that even a momentary lapse of attention can have disastrous consequences. These positions are identified by the human resources officer based on duties and responsibilities of the employee. Included are law enforcement, fire personnel, public safety officer, employees operating vehicle owned by the town or a personal vehicle which is used as a major part of their work, employees working with hazardous chemicals, employees working with heavy equipment and employees working within Water, Sewer and Storm Water positions and DOT regulated employees. Employees are advised if they occupy a safety-sensitive position.
22. SAMHSA – Substance Abuse and Mental Health Services Administration
23. Substance Abuse – For the purpose of this policy any use of alcohol, an illegal drug, or a lawful drug which directly and adversely affects job performance or safety.
24. Supervisor/Department Head – A Town employee whom another employee or group of employees report.
25. USC – United States Code.

#### Included in the Policy

Form A – Acknowledgement of Receipt of Drug Free Workplace/Alcohol and Substance Abuse Policy

Form B – Drug Testing Authorization Form

Form C – Observation of Suspect Behavior Form

The Human Resources Officer is responsible for distribution of forms to supervisors and employees.



The attached policy was developed with resources from the following:

1. Food and Drug, 21 CFR 1308.11-15
2. Unites States Code Controlled Substance Act Subchapter 1, Part B, Section 812
3. Procedures for Transportation Workplace Drug and Alcohol Testing Programs, 49 CFR Part 40
4. Federal Motor Carrier Safety Administration, 49 CFR parts 382
5. US Dept. of Transportation, Officer of Drug & Alcohol Policy and Compliance
6. US DOL Drug Free Workplace
7. DHHS Substance Abuse and Mental Health Services Administration (SAMHSA), Division of Workplace Programs
8. North Carolina General Statutes, Chapter 95, Article 20 – Controlled Substance Examination Regulation
9. North Carolina Administration Code, Title 13, Chapter 20 – Controlled Substance Examination Regulation
10. North Carolina General Statutes, Chapter 90
11. North Carolina General Statutes, 153A-98. Privacy of Employee Personnel Records
12. North Carolina General Statutes, Chapter 20, Article 2C, 37.18 and 37.19 – Commercial Driver License