



# Drug-Free Workplace and Substance Abuse Policy

## **Purpose**

Forsyth County is committed to promoting and maintaining a safe, healthy, and efficient working environment for all employees and those who do business with the County. It is recognized that the use of alcohol or drugs may have serious adverse effects on an employee's health, safety, and job performance.

## **Covered Under this Policy**

- Prohibitions and Expectations
- Training and Distribution of Educational Materials
- Self-Reporting Requirements
- Confidentiality and Maintenance of Medical Records
- Testing: Certain Conditions, Procedures, and the Consequences of Results
- Mandatory Employee Assistance Program (EAP)
- Consequences of Violations
- Definitions (as determined by United States Department of Transportation Workplace Drug and Alcohol Testing Programs)

## **Prohibitions and Expectations**

\*Employees are explicitly prohibited from:

- Possessing, distributing, selling, manufacturing or being under the influence of, alcohol, any illegal drug, or a prescription drug;
- Possession of related drug paraphernalia in the work place, or in County vehicles; or elsewhere while on County business;
- Consuming alcoholic beverages while on County premises, County customer premises, in County vehicles, or while on County business or time. Using alcohol for social functions or any circumstances related to organizational business. Any exception is determined by Department Managers in consultation with Human Resources. No approval will be granted that contravenes the intent of this policy;
- Abusing inhalants or prescription drugs or possessing prescription drugs that have not been prescribed for the employee by a physician, or impaired by prescription drugs that inhibit ability to proficiently perform job duties;

## **Trainings and Distributions of Educational Materials**

- The County provides training for all new employees in an effort to help provide a safe and drug-free environment.
- Specialized training which covers County policies and procedures is provided for Supervisors of commercial motor vehicle ("CMV") drivers as well as CMV drivers. CMV drivers are provided additional educational materials involving the scope of County requirements for CMV drivers and continued qualifications to drive.
- Human Resources shall coordinate drug free awareness training which will include but not limited to communication of the contents of this testing policy, the dangers of drug abuse in the workplace, information concerning the Employee Assistance Program and the available drug counseling and rehabilitation

available through that program, the penalties that may be imposed upon an employee for a drug abuse violation occurring in the workplace.

### ***Self-Reporting Requirements***

Prior to an employee driving a County motor vehicle as a part of regularly assigned duties or prior to driving sporadically as assigned, employees shall disclose the following occurrences to the Human Resources Director.

- Arrests for on or off-duty DUIs, as well as convictions and the terms of any "diversion " program as a result of on or off-duty driving while impaired by alcohol or drugs by no later than the next business day as a condition for continued employment;
- A conviction or arrest involving any alcohol or drug related offense by no later than the next business day as a condition for continued employment,
- A suspension of driving privileges for any reason.
- The use of prescription drugs according to a physician's instructions or the use of over-the-counter drugs for medicinal purposes in the event such drugs would impair their physical, mental, emotional, or other faculties. Such reporting is a confidential record in the same manner as FMLA records.

### ***Confidentiality and Maintenance of Medical Records***

1. All information relating to drug or alcohol screens will be kept strictly confidential. The information will be kept in the employee's medical file which will be maintained separately from the employee's personnel file. These medical files will be kept secured and access will be limited to certain need to know Human Resources and management individuals.
2. Under no circumstances will the results of a drug or alcohol screen be discussed with individuals who do not have a work-related need to know.
3. **Commercial Motor Vehicle Drivers.** The County or its service agent under DOT regulations may disclose information without written authorization to conduct DOT tests or to release information to requesting federal, state or local safety agencies with regulatory authority over the County or employees.

### ***Testing – Commercial Motor Vehicle Drivers***

The County requires drivers of certain vehicles to obtain commercial drivers licenses ("CDLs"). Drivers with CDLS are subject to random testing at least four (4) times each year, are required to strictly comply with alcohol and drug testing rules, and are required to make certain disclosures to the County about the use of alcohol and controlled substances.

As well, such drivers are subject to discharge for violation of provisions of the County Drug-Free Workplace and Substance Abuse Policy which includes but is not limited to the following:

- A pre-duty requirement to disclose the use of over-the-counter drugs for medicinal purposes that might cause impairment; or
- A refusal to consent to random drug testing at least four (4) times per each calendar year; or
- United States Department of Transportation requirements under C.F.R. Title 49 Transportation; or

- North Carolina CDL requirements under NCGS Chapter 20, Article 2C

### Testing – All Individuals

Further, individuals are subject to drug testing

- 1. Pre-employment.** The County must receive a negative drug test result.
  - a. All applicants for employment with Forsyth County are subject to the testing provisions of this policy.
  - b. All applicants for employment with Forsyth County will be provided with written notification of this drug testing policy.
  - c. The notice shall include the following information:
    - (1) The reason for drug testing.
    - (2) The circumstances under which testing may be required.
    - (3) The procedure for confirming an initial positive drug test result.
    - (4) The consequences of a positive drug test result.
    - (5) The consequences of refusing to undergo a drug test will be denied employment.
    - (6) Applicants will be asked to sign a consent form authorizing a drug test and permitting release of the test results to County officials with a need to know.
    - (7) The Human Resources Director may waive drug testing in cases of temporary employment or part-time employment.
- 2. Post-accident.** Drug and alcohol tests may be required after crashes under specific circumstances of a fatality, bodily injury, or disabling damage to a motor vehicle.
- 3. Reasonable Suspicion.** Drivers who appear to be under the influence of drugs or alcohol may be immediately tested.
- 4. Return to duty.** Required for drivers who tested positive, refused, or otherwise violated the prohibitions, and have completed the return to duty process with a DOT-qualified professional.
- 5. Follow-Up.** Required for drivers who tested positive, refused, or otherwise violated the prohibitions, have completed the return to duty process with a DOT-qualified professional, and have tested negative for a return-to-duty test.

Further, drivers and non-drivers are subject to other North Carolina duly constituted and recognized agencies and licensing boards to include but not limited to law enforcement personnel in positions subject to the provisions of the North Carolina Criminal Justice Education and Training Standards Commission, will be subject to the drug testing policies and procedures of the Commission.

### Testing – Procedures

1. In consultation with Human Resources, a Department Manager who has reasonable suspicion that an employee has consumed, is under the influence of, or is impaired by alcohol or drugs while at work, is authorized to have the employee taken to one of the test sites of the County's contracting laboratory.
2. The employee is required to cooperate fully with testing personnel.
3. Employees will be taken home for the rest of the day after leaving the test site.
4. The Department Manager will ask the employee to sign a consent form before a test is administered, (available from the Human Resources Department) authorizing the test and permitting the release of test results to Forsyth County officials who have a need to know. The consent form shall also set forth the following information:

- a. The procedure for confirming an initial positive test result.
  - b. The consequences of a positive test result.
  - c. The right of an employee to explain a positive alcohol test result.
  - d. The consequences of refusing to undergo an alcohol test.
5. The Human Resources Department will provide necessary laboratory test forms and employee consent forms to each department. Departments will also be provided with the location of the laboratory location(s) and any special procedures that apply after normal office hours (Monday through Friday, 8:00 a.m. to 5:00 p.m.).

\*The test is allowed for commercial motor vehicle drivers under DOT regulations without first obtaining employee authorization.

### ***Positive Test Results***

1. An employee who has a positive alcohol or drug test result will be referred to the Employee Assistance Program by their Supervisor or Department Manager. Continued employment will be contingent upon review and consideration of the employee's full cooperation with the alcohol or drug treatment personnel and upon successful completion of the treatment program as determined by the Employee Assistance Program Personnel.
2. Employees who voluntarily, without reasonable suspicion of a Supervisor, identifies themselves as an alcohol or drug abuser to County management is subject to mandatory compliance with the provisions of the Employee Assistance Program ("EAP") provisions.
3. An employee receiving assistance under the EAP will use accrued sick leave, annual leave, compensatory leave, or leave without pay for all time away from work.
4. Human Resources will be notified and subsequently, the Director will notify the Department Manager of prohibited employee actions under this Policy.
5. The County will disclose test results of the County's alcohol or drug testing program as evidence in a criminal action or for any other purpose against the employee except as may be required by law or by order of court.
6. Nothing in this policy will prevent County management from requiring testing for the use of illegal drugs in accordance with the Drug-Free Workplace Policy.

### ***Mandatory Employee Assistance Program (EAP)***

1. EAP is a confidential resource designed to assist employees in dealing with challenges and problems such as substance abuse and they may reach an EAP representative by dialing 844-768-0791 or online at [guidanceresources.com](http://guidanceresources.com). The web ID is: FORSYTH.
2. Employees referred to the EAP for participation in an alcohol or drug rehabilitation program, who fail to enter or successfully complete the program, will be recommended for dismissal.
3. Disciplinary action is not automatically suspended by an employee's participation in the EAP and may be taken against an employee for other failure to perform or unacceptable personal conduct actions.
4. Employees who have successfully completed an alcohol rehabilitation program will be subject to unannounced tests for two years after documented completion of the program. Drivers of commercial motor vehicles are subject to USDOT requirements for return-to-work and follow up requirements. A subsequent positive test result will be grounds for immediate dismissal.

5. Nothing in this section is intended to alter the confidential nature of the EAP for employees who voluntarily identify themselves as alcohol abusers and individually request assistance from EAP staff.

### **Consequences of Violations**

1. An employee who refuses to consent to an alcohol or drug test request may be recommended for and is subject to suspension without pay immediately, or dismissal, or it may be considered a "voluntary termination."
2. If the employee is suspended, transportation from the workplace to the employee's home will be provided to the employee. If the employee refuses transportation and insists on driving, law enforcement officials may be notified.
3. An employee requesting delay(s) in an alcohol test, or failing to appear for the test will be considered to have refused to consent to a test and becomes subject to disciplinary action up to dismissal.
4. An employee will be considered "under the influence" if the presence of alcohol or drug use is detected.
5. If a Supervisor suspects that an individual is at work and under the influence of alcohol or drugs, the Supervisor will notify the Department Manager and the Human Resources Director.
6. Any employee who violates the provisions of the Drug-Free Workplace and Substance Policy is subject to corrective action up to and including termination of employment.
7. An employee is prohibited from Operating a County motor vehicle without having in their possession a valid, unrestricted North Carolina driver's license.
8. Loss of a license could result in termination. An employee who drives a County vehicle without a valid N.C. driver's license will be recommended for termination.
9. If an employee recognizes a personal addiction or abuse problem and seeks assistance from management in advance of detection, the County may elect to assist the employee in seeking treatment. The confidential nature of the employee's counseling and rehabilitation for drug or alcohol abuse will be preserved.
10. Notwithstanding the County's interest in providing assistance to employees who abuse alcohol or drugs, employees are not absolved from responsibility for their failure to perform or unacceptable personal conduct.
  - a. There may be circumstances where the misconduct of employees under the influence of alcohol or drugs is so detrimental that it is in the best interest of the County that employment will be terminated.
  - b. Factors that may be considered when making recommendations for disciplinary actions include the employee's
    - i. work history;
    - ii. job assignment;
    - iii. length of employment;
    - iv. current job performance; and
    - v. past disciplinary actions.
  - c. Appointing authorities retain their responsibility and authority with respect to disciplinary action up to and including dismissal.
11. Discharge decisions are subject to appeal as may applicable under County policy.

## Definitions

- **Actual knowledge**, in compliance with requirements of the United States Department of Transportation Workplace Drug and Alcohol Testing Programs ("USDOT testing"), means actual knowledge by an employer that a driver has used alcohol or controlled substances based on the employer's direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a commercial motor vehicle ("CMV") while under the influence of alcohol or controlled substances or an employee's admission of alcohol or controlled substance use, except is allowed under a written County-established voluntary self- program or policy in accordance with USDOT requirements. Direct observation as used in this definition means observation of alcohol or controlled substances use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing.
- **Alcohol** means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.
- **Alcohol concentration (or content)** means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under this part.
- **Alcohol use** means the drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol.
- **Commerce** means any trade, traffic or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, including a place outside of the United States; and trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described under USDOT regulations.
- **Commercial Driver's License Drug and Alcohol Clearinghouse ("Clearinghouse")** means the Federal Motor Carrier Safety Administration ("FMCA") database that USSDOT regulations requires employers and service agents to report information to and to query regarding drivers who are subject to the DOT controlled substance and alcohol testing regulations.
- **Commercial motor vehicle** means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle
  - Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater; or
  - Has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 or more pounds), whichever is greater; or
  - Is designed to transport 16 or more passengers, including the driver; or
  - Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations.
- **Confirmation (or confirmatory) drug test** means a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite.



- **Confirmation (or confirmatory) validity test** means a second test performed on a urine specimen to further support a validity test result.
- **Confirmed drug test** means a confirmation test result received by an MRO from a laboratory.
- **Consortium/Third party administrator (C/TPA)** means a service agent that provides or coordinates one or more drug and/or alcohol testing services to DOT-regulated employers. C/TPAs typically provide or coordinate the provision of a number of such services and perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members (e.g., having a combined random testing pool). C/TPAs are not "employers" for purposes of this provision.
- **Controlled substances**, for commercial motor vehicle drivers mean those five substances identified by "\*" under USDOT regulations and other combinations in accordance with state and federal law as:
  - \*Marijuana metabolites.
  - \*Cocaine metabolites.
  - \*Amphetamines.
  - \*Opioids.
  - \*Phencyclidine (PCP).
  - Barbiturates
  - Benzodiazepines
  - Propoxyphene
- **Designated employer representative (DER)** is an individual identified by the employer as able to receive communications and test results from service agents and who is authorized to take immediate actions to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The individual must be an employee of the company. Service agents cannot serve as DERs.
- **Disabling damage** means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.
  - **Inclusions.** Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.
  - **Exclusions.**
    - Damage which can be remedied temporarily at the scene of the accident without special tools or parts.
    - Tire disablement without other damage even if no spare tire is available.
    - Headlight or taillight damage.
    - Damage to turn signals, horn, or windshield wipers which make them inoperative.
- **DOT Agency** means an agency (or "operating administration") of the USDOT administering regulations requiring alcohol or drug testing in accordance with its procedures for alcohol and drug testing regulations .

- **Driver** means any person who operates a County commercial motor vehicle or any other County vehicle. This includes, but is not limited to: full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors.
- **Employer** means a person or entity employing one or more employees (including an individual who is self-employed) that is subject to DOT agency regulations requiring compliance with this part. The term, as used under USDOT regulations, means the entity responsible for overall implementation of DOT drug and alcohol program requirements, including individuals employed by the entity who take personnel actions resulting from violations of this policy and any applicable DOT agency regulations. Service agents are not employers for the purposes of this part.
- **Licensed medical practitioner** means a person who is licensed, certified, or registered, in accordance with applicable Federal, State, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.
- **Negative return-to-duty test result** means a return-to-duty test with a negative drug result or an alcohol test with an alcohol concentration of less than 0.02, as follows:
  - If the County decides as to permit the employee to return to the performance of safety-sensitive functions, the County will ensure that the employee takes a return-to-duty test. The test will not occur until after the Substance Abuse Professional ("SAP") has determined that the employee has successfully complied with prescribed education or treatment. The employee must have a negative drug test result or an alcohol test with an alcohol concentration of less than 0.02 before resuming performance of safety-sensitive duties.
  - The County will not return an employee to safety-sensitive duties until the employee meets the conditions of the above-cited bullet. However, the County is not required to return an employee to safety-sensitive duties because the employee has met these conditions. It is a personnel decision that the County has the discretion to make, subject to any legal requirements.
  - The SAP or MRO will not make a "fitness for duty" determination as part of the re-evaluation unless required to do so under an applicable USDOT agency regulation. Rather, the County that will decide whether to put the employee back to work in a safety-sensitive position.
- **Performing (a safety-sensitive function)** means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.
- **Positive rate for random drug testing** means the number of verified positive results for random drug tests conducted under the USDOT regulations plus the number of refusals of random drug tests required, divided by the total number of random drug tests results (*i.e.*, positives, negatives, and refusals).
- **Refuse to submit (to an alcohol or controlled substances test)**, determined by a medical review officer ("MRO") means that a driver:
  - Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the County, consistent with applicable USDOT agency regulations, after being directed to do so by the County.



This includes the failure of an employee to appear for a test when called by a C/TPA in accordance with required preliminary steps under USDOT regulations;

- Fails to remain at the testing site until the testing process is complete. Provided, that an employee who leaves the testing site before the testing process commences a pre-employment test in accordance with USDOT regulations is not deemed to have refused to test;
  - Fails to provide a urine specimen for any drug test required by USDOT regulations. Provided, that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test;
  - In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the driver's provision of a specimen;
  - Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
  - Fails or declines to take a second test the employer or collector has directed the driver to take;
  - Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER. In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment;
  - Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process); or
  - Is reported by the MRO as having a verified adulterated or substituted test result.
- **Safety-sensitive function** means all time from the time a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:
    - All time at the County site or any other property waiting to be dispatched, unless the driver has been relieved from duty by the County;
    - All time inspecting equipment or otherwise inspecting, servicing, or conditioning any motor vehicle at any time;
    - All time spent at the driving controls of a motor vehicle in operation;
    - All time, other than driving time, in or upon any motor vehicle except time spent resting in a sleeper berth (a berth conforming to USDOT requirements);
    - All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
    - All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
  - **Screening test (or initial test)** means:

- In drug testing, a test to eliminate “negative” urine specimens from further analysis or to identify a specimen that requires additional testing for the presence of drugs.
- In alcohol testing, an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.
- **Stand-down** means the practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test results.
- **Violation rate for random alcohol testing** means the number of 0.04 and above random alcohol confirmation test results conducted under this part plus the number of refusals of random alcohol tests required by this part, divided by the total number of random alcohol screening tests (including refusals) conducted under this part.

**EMPLOYEES WHO HAVE QUESTIONS ABOUT THIS POLICY SHOULD CONTACT  
THEIR SUPERVISOR OR THE DEPARTMENT**

Name of Employee (Print)

Name of Witness (Print)

\_\_\_\_\_  
Signature of Employee

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Employee ID #

\_\_\_\_\_  
Date