

**TOWNSHIP OF LONG BEACH, NJ**  
**DRUG AND ALCOHOL TESTING POLICY**  
**(Revised 5/1/2016)**

Statement of Purpose:

This Drug and Alcohol Testing policy is intended to supplement and strengthen the Township of Long Beach's strong and continued commitment to operating a workplace free from alcohol and drug abuse on the part of municipal employees. The Mayor and Commissioners specifically recognize the negative effects that alcohol and drug abuse have on employees' performance, on workplace injuries and attendance, on the quality of services provided by employees to the public, and on the Township's commitment to operating a safe and healthy workplace environment.

This policy shall serve to renew the Township's commitment to a drug & alcohol free workplace. Employees who presently suffer from alcohol or drug abuse are strongly encouraged to seek counseling and substance abuse treatment as explained below under the section entitled "Early Intervention" prior to the imposition of corrective or disciplinary measures by the Township's administrative offices.

Authority:

Drug Free Workplace Act of 1988, 41 U.S.C. Sec. 8101 et seq.  
Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12114

Introduction:

This Drug and Alcohol Testing policy shall apply to all employees who are employed by the Township of Long Beach, inclusive of supervisors, unless expressly covered by another Township policy on drug and alcohol testing. This policy shall also apply to volunteers for whom the Township has authorized to perform services on behalf of the municipality. Certain portions of this policy related to pre-employment testing and random testing of safety-sensitive employees, as outlined herein, apply only to specific positions or titles, inclusive of supervisors. An Addendum listing the specific positions or titles to which the pre-employment testing and random testing portions of this policy apply is attached hereto.

This policy contemplates drug and alcohol testing under five (5) types of circumstances:

- a) Post-offer pre-employment drug testing of applicants for safety sensitive positions;
- b) Random testing for employees working in safety sensitive positions, whether compensated or not, who typically have responsibility for the safety, health or welfare of other individuals/ the general public or public property, where physical and mental acuity is paramount to the execution of such responsibility, or positions for which a security clearance (e.g., criminal background check) is required;
- c) Reasonable Suspicion testing for all employees based upon objective criteria that demonstrates an employee may be under the influence of, or abusing alcohol or drugs in or during the course of performing his/her duties;

- d) Post-accident testing for all employees where any person is injured or property is damaged due to an employee's actions (or inactions) when operating a motor vehicle or motorized equipment in or during the course of performing his/her duties;
- e) Return-to-Work testing for employees who have undergone a treatment program or been granted a leave of absence to seek drug and/or alcohol treatment and who wish to return to work upon successful completion of a prescribed course of treatment or rehabilitation.

#### Pre-Employment Testing:

All candidates seeking employment with the Township of Long Beach in safety-sensitive positions as outlined in this policy will be notified that a post-offer, pre-employment drug test is a mandatory component of obtaining and maintaining employment with the Township. Candidates seeking employment in safety-sensitive positions covered by US Department of Transportation regulations, 49 CFR Part 40 or Part 655 shall be subject to pre-employment testing under the Township's Drug and Alcohol policy for safety-sensitive employees in Transit Operations positions.

Once a conditional offer of employment has been made or extended, an applicant shall complete a form consenting to the collection and analysis of his or her urine for illegal drugs. Prior to submitting a specimen, the consent form shall advise the applicant that a negative test result is a condition of obtaining employment and that a positive test result will result in the revocation of the conditional offer of employment. Applicants who are scheduled for testing shall complete a form listing all prescription medications or over-the-counter medications that the applicant has taken within fourteen (14) days prior to the testing. At the Township's discretion, a drug test may be administered at the time a pre-employment physical is performed.

#### Early Intervention:

An employee suffering from an addiction to alcohol, prescription medication or illegal narcotics (to include "controlled substances") who presents his/her problem to the department head (or to the Business Administrator) prior to being selected for a random drug or alcohol test, or prior to being identified for a reasonable suspicion drug or alcohol test shall be offered a one time opportunity to undergo treatment/rehabilitation at the employer's expense (to the extent covered under the Employee Assistance Program or the employee's health plan) for such addiction. The department head and employee shall schedule such outpatient or inpatient treatment (as determined by a licensed health care professional in the field of alcohol or substance abuse) so as not to unduly disrupt the operations of his/her department. Employees may utilize existing sick time for the purpose of receiving treatment or, if in-patient rehabilitation is necessary, may be granted a leave of absence without pay upon the exhaustion of accrued sick leave. The employee shall be obligated to follow any recommended course of treatment during and upon completion or discharge from a program. Failure to adhere to recommended treatment shall be cause for disciplinary action and/or re-enrollment in inpatient or outpatient care as determined by the licensed health care professional. However, an employee who fails to complete a recommended course of treatment on more than one occasion shall face disciplinary action up to and including termination.

An employee who successfully completes an alcohol or substance abuse program shall successfully pass a return-to-work drug or alcohol tests prior to being restored to employment.

For those employees who are subject to random testing, upon successfully passing a return to work drug or alcohol test, the employee shall be immediately returned to the list of employees subject to random testing.

Off duty conduct:

Any employee arrested for a violation of State or federal drug laws and/or for driving under the influence or driving while intoxicated shall report the arrest to his/her department head within 48 hours of being taken into custody by law enforcement authorities. The department head (in conjunction with the Business Administrator) shall thereafter meet with the employee and require the employee to be screened by the Employee Assistance Program.

If the arrest “touches and concerns” the employee’s position as a Township employee, the Business Administrator, in consultation with the municipal solicitor and/or special labor counsel, shall discuss whether to temporarily remove the employee from performing his or her duties pending the disposition of the charges for which the employee was arrested. An employee so relieved shall continue to receive pay until the Township schedules a Loudermill hearing. At the hearing, the employee may choose not to respond. The department head shall gather any relevant documentation (such as police reports, witness statements, criminal charges, arrest warrants, etc.) for use at a subsequent departmental hearing.

If the employee’s arrest results in incarceration or imprisonment that restricts the employee’s ability to report to work, the employee shall be treated as being absent without authorization and shall be in a non-pay status for the period of the unauthorized absence, and shall thereafter be subject to disciplinary action for unapproved absence.

Random Testing:

Attached to this policy is an Addendum listing the positions and titles of safety-sensitive employees subject to random drug and alcohol testing. The Township shall establish a procedure whereby all eligible employees shall have an equal chance of having their names selected for random testing through a computer generated, random selection process. The Township shall test a minimum of five percent (5%) of all eligible employees no less than once a month and no greater than twice per month. An employee may be required to be tested randomly more than once per month.

Due to the difference in substances being tested, employees who perform safety-sensitive functions covered by US Department of Transportation regulations, 49 CFR Part 40 or Part 655, shall be subject to random testing under the Township’s Drug and Alcohol policy for safety-sensitive employees in Transit Operations positions as well as random testing under this policy. When selected for random drug or alcohol testing under this policy, said employees shall be informed that testing is being done pursuant to this policy and shall be provided with non-DOT custody and control forms for submitting a breath or urine specimen.

An employee whose name has been randomly selected for a drug and/or alcohol test shall be relieved from duty and shall be transported to the designated testing service center and submit a sample as directed by an agent of the drug testing company. Thereafter, the employee shall return to duty and resume working in the normal course, unless he or she has undergone a

breathalyzer test for alcohol use and has produced a breath alcohol content of point zero four (0.04%) after a confirmation test.

Any employee who is selected for a random drug or alcohol test but who is not at work due to an excused absence (illness, vacation, regular day off, etc.), shall be tested upon his or her next regular work day. An employee on an approved leave of absence shall be tested upon his or her return to work unless a subsequent random selection has been made.

Reasonable Suspicion:

Reasonable suspicion testing of employees shall be ordered by department heads or the Business Administrator based upon one or more of the following “factors” which shall be based upon a supervisor’s observations, which shall include, but not be limited to:

- odors such as the smell of alcohol, marijuana or other substances upon one’s clothes, hair or breath, etc.
- appearance to include blood-shot or glassy eyes, paling or reddening of the face, nervousness, having the “shakes”, slurred, rapid or incomprehensible speech, etc.
- behavior such as the inability to remain focused on a task, excessive hyper activity, extreme fatigue, aggression, stumbling, dizziness, carelessness, being in a state of confusion, etc.
- actions of an employee possessing or using alcohol or drugs or paraphernalia related to the use of such.

The Township shall provide periodic training for supervisors and department heads. Any supervisor who has reasonable suspicion to send an employee for a drug or alcohol test shall furnish a written statement, as comprehensive as possible, of the supervisor’s reasons for recommending such testing. The supervisor shall immediately contact his/her department head (or the Business Administrator if the department head is not available) and provide a verbal report of the circumstances. The department head and/or Business Administrator shall determine whether to order the employee to testing.

The Township may also order drug or alcohol testing on reasonable suspicion where an employee works in a safety sensitive position based upon the following reasons: failure to protect the health, safety and welfare of the general public or individuals under the employee’s supervision or control. This list is not exhaustive. When considering whether to send an employee to testing based upon the reasons in this paragraph, the supervisor shall observe and document whether any of the “factors” listed above in the first paragraph are present, to enable the department head or Business Administrator to decide whether to order the employee to testing.

The department head or Business Administrator shall also retain the discretion to order employees who are injured on the job to undergo reasonable suspicion testing based upon the circumstances surrounding the injury. Due consideration shall be given to the employee’s job responsibilities, the degree of care exercised by the employee, any safety precautions or other procedures which, if used properly, may have prevented injury, and the “factors” listed above in the first paragraph.

### Post-Accident:

Post-accident testing shall be mandatory for an employee whose actions or inactions resulted in injury or harm to any other person or damage to Township or other property when operating a motor vehicle or motorized equipment in or during the course of performing the employee's duties. Post-accident testing may be ordered for employees for motor vehicle accidents where the circumstances tend to indicate fault on the part of the employee. However, for property damage only cases, the department head or Business Administrator shall determine whether to send the employee for post-accident testing based upon the circumstances surrounding the accident such as whether the accident appeared to be caused by the employee or a third party. The department head or Business Administrator shall retain discretion where the estimated value of the property damaged or the estimated amount to repair the damage caused by the employee, in the opinion of the Township's supervising mechanic, appears to be less than \$1,000. In departments where employees routinely operate motor vehicles as part of their regular job functions, department heads shall use common sense principles when considering whether to send an employee for testing for property damage only accidents.

Employees shall immediately report accidents to their supervisors. A supervisor receiving such report shall document the accident and shall include any observations of the employee based upon the "factors" in the section entitled Reasonable Suspicion. The supervisor shall report the accident to the department head (or Business Administrator if the department head is unavailable) immediately, providing a verbal report of the circumstances. The department head and/or Business Administrator shall determine whether to order the employee to testing.

### Substances tested:

The Township of Long Beach through its designated drug and alcohol testing service center (and certified laboratory) shall test employees based upon any of the circumstances described above. Substances to be tested shall consist of the following:

- Alcohol (in any form) that causes intoxication in humans;
- Prescription medications and over-the-counter medications that cause impairment of cognitive (thinking) abilities or motor skills in humans;
- Narcotics, drugs or controlled substances as defined under the Comprehensive Drug Abuse Prevention and Control Act (21 U.S.C.A. § 801 et seq.) or as prohibited by law:

- Amphetamines
- Marijuana
- Cocaine
- Opiates
- Phencyclidine
- Barbiturates
- Benzodiazepines
- Methamphetamines
- Methadone
- Propoxyphene

The Township also reserves the right to test specimens for products that attempt to mask drugs in an individual's system. Some products that claim to help individuals "beat" drug tests include, but are not limited to, Goldenseal, QuickClean, Mary Jane Super Clean 13 and other commercial products. The presence of any of the aforementioned drugs or masking agents in any amount shall be deemed a positive test against the individual who supplied the specimen.

An employee who is required to take prescription medications or who uses over-the-counter medications that may affect his/her ability to perform the job shall inform his/her department head at the beginning of his/her shift, in compliance with the Township's "Reporting of Prescription and Non-Prescription Medication policy," within the most recent version of the Township's Employee Handbook, to enable the Township to make a determination as to whether to permit the employee to perform his or her duties. The information provided by the employee shall be kept strictly confidential. For prescription medications, the employee may be required to provide a copy of the prescription to enable the department head, or Business Administrator in the department head's absence, to confer with the Medical Review Officer or other designated health care professional about whether the employee should be permitted to perform his or her duties.

#### Procedures:

An employee ordered to undergo a drug or alcohol test on a random basis (due to the selection of the employee's number) shall be driven to the Township's designated testing service center by a supervisor on the day he or she is selected, and if absent, as soon as practical on the day the employee returns to work. Employees who work an evening or night shift shall be sent for testing either upon arrival at work or at the end of their shift.

An employee ordered by a department head or the Business Administrator to undergo a drug or alcohol test on the basis of reasonable suspicion shall be driven to the designated testing service center by a supervisor as soon as practical but in no event more than one hour from the time the department head or Business Administrator directs. If the employee cannot immediately be taken to the designated testing service center, the employee's supervisor shall relieve the employee from duty with pay and shall maintain direct monitoring of the employee until he or she delivers the employee for testing. The employee shall remain relieved of duties with pay pending the test results.

An employee ordered by a department head or Business Administrator to undergo a drug or alcohol test due to being involved a motor vehicle or motorize equipment accident shall be driven to the designated testing service center by a supervisor as soon as practical after the accident, but in no event later than eight hours from the time of the accident as determined by a police report or other credible source (unless the employee is hospitalized). The employee's supervisor shall document (in detail) the reasons for any delay. If the police or other law enforcement officer performs breathalyzer testing (for alcohol) at the scene of the accident, such testing shall be deemed presumptively conclusive. The employee shall remain relieved of duties with pay pending the test results.

Employees ordered to undergo drug and alcohol testing shall be tested by way of urinalysis (drugs) and certified breathalyzer (alcohol) testing. No employee ordered to be tested shall refuse such testing. An employee unable to supply a breath sample (alcohol testing) or

urine sample (drug testing) shall be taken to a licensed physician for a decision as to whether the employee has a valid health problem preventing the employee from complying with the order.

An employee ordered to submit to a drug or alcohol test shall complete a form listing all prescription medications or over-the-counter medications that the employee has taken within fourteen (14) days prior to the testing, as well as a non-DOT custody and control form. The employee shall place his/her Township employee number on the forms along with his/her initials. The forms shall be forwarded to the Medical Review Officer who shall compare the information supplied by the employee with the results of the drug or alcohol test.

Results of any drug or alcohol test shall be reported to the Medical Review Officer (MRO) appointed by the Township who shall compare the results to the information provided on the form filled out by the employee. The MRO shall contact the employee and the Business Administrator and inform them of the results of the test. The Business Administrator shall in turn inform the employee's department head who shall keep the employee's test results in strict confidence. An employee whose tests results produce a positive reading for drug or alcohol use shall be subject to disciplinary action as discussed in the section entitled "Discipline" below.

Standards:

Employee specimens shall be collected in accordance with standardized or nationally accepted chain-of-custody principles. For alcohol testing, the designated testing service center shall maintain protocols insuring the proper operation and calibration of evidential breath testing devices or breathalyzers. For drug testing, the designated testing service center shall maintain protocols for the collection of urine samples which shall include, at a minimum, a procedure whereby the employee voids in a private location without access to water or other fluids that could adulterate the sample, whereby the employee completes a non-DOT control and custody form for his/her sample, and where an employee has an opportunity to observe the sealing of his/her sample in his/her presence.

An employee whose evidential breath testing device or breathalyzer sample yields a breath alcohol content of point zero four percent (0.04%) or greater shall be relieved from duty with pay pending a Loudermill hearing. The designated testing service center shall perform a minimum of two breathalyzer tests. For drug testing, where an employee's urine sample produces a positive test result for drugs using the immunoassay method, said employee's sample shall be tested a second time using the gas chromatography/ mass spectrometry method for confirmation. An employee whose drug test results produce a positive reading shall be relieved from duty with pay pending a Loudermill hearing.

For drug testing by way of urinalysis, an employee shall have the right to request that the designated testing service center secure and maintain a split specimen sample for the employee's benefit. An employee whose test results produce a positive screening for drugs may, at his/her expense, have the split sample sent to a certified laboratory for testing. The certified laboratory to whom the employee directs the split sample shall report the results to the Township's Medical Review Officer for interpretation and evaluation. The Medical Review Officer shall then make a final determination as to whether the employee has complied with the terms of the policy. The Township maintains its rights to substitute newer and more accurate means of drug and alcohol testing for employees subject to providing 30 days notice to affected employees.

### Discipline:

An employee who refuses to comply with an order to submit to a drug or alcohol test shall be relieved from duty with pay pending a Loudermill hearing. The employee shall thereafter be terminated for insubordination after a departmental hearing. An employee whose test results produce a positive reading for alcohol of point zero four percent (0.04%) or greater shall be subject to discipline ranging from a suspension through termination and shall also be required to attend inpatient or outpatient treatment as decided by a licensed health care professional. An employee whose test results produce a positive reading for use of prescription medication without a valid prescription shall be subject to discipline ranging from a suspension through termination and shall also be required to attend inpatient or outpatient treatment as decided by a licensed health care professional. An employee whose test results produce a positive reading for illegal drug use (e.g., narcotics or controlled substances) shall receive a sixty (60) day suspension and shall be required to attend inpatient or outpatient treatment as decided by a licensed health care professional for the first offense and shall be terminated for any subsequent violation.

Factors to be considered when determining whether to suspend or remove an employee shall include (but not be limited to) the following: the employee's length of service with the Township, the employee's disciplinary record, prior violations of the Township's drug or alcohol free workplace policies, the amount or level of toxins disclosed by the drug or alcohol testing, and any damage or injury caused by the employee's behavior.

Notwithstanding the disciplinary scheme outlined above, should an employee be convicted of violating State or federal drug laws, and the provisions of N.J.S.A. 2C:51-2 apply, the Township shall terminate his or her employment.

An employee who is convicted of driving under the influence or driving while intoxicated and who loses a license or certification required for his or her job shall be subject to discipline ranging from a suspension through termination and shall also be required to attend inpatient or outpatient treatment as decided by a licensed health care professional. In addition to the factors listed above, the Township shall also consider the expected length of any licensure or certification suspension or revocation.

### Records:

All records pertaining to drug and alcohol testing of Township employees, including lists of names selected for random testing, reports related to reasonable suspicion and post-accident testing, and test results, shall be kept strictly confidential and shall be maintained in the Township's administrative offices in files distinct from employees' personnel files. Although drug and alcohol testing records shall be maintained separately, copies of positive test results for which disciplinary action is taken may be maintained in employee personnel files.

### Distribution and Inquiries:

Every employee shall receive and read a copy of this policy and sign a receipt acknowledging the same. This policy shall be provided to all new employees.

Any employee who has a question about this policy or the procedures used by the Township shall direct his/her inquiry to the department head or the Business Administrator.

Copies of this policy shall be maintained in the Township's administrative offices and shall be made available to any employee requesting such.

## **ADDENDUM: SAFETY SENSITIVE POSITIONS**

The following positions or titles shall be deemed “safety sensitive” and shall be subject to random drug and/or alcohol testing under the Township’s drug and alcohol testing policy:

- Employees whose positions require a Commercial Driver’s License (CDL) but who are not subject to random testing under any other Township drug and alcohol testing policy;
- Employees whose positions do not require a CDL but who are expected to operate heavy equipment or machinery;
- Emergency Medical Technicians;
- Volunteer Fire Fighters and Fire Police;
- All non-clerical employees assigned to the Water & Sewer Utility;
- Public Safety dispatchers and/or telecommunicators;
- Lifeguards and employees required to perform lifesaving activities;
- Supervisors of any of the above listed employees.
  
- Employees and supervisors of employees assigned to transit operations who perform safety-sensitive functions as defined under 49 CFR Part 40 or Part 655 shall be subject to random testing under the Township’s Drug and Alcohol policy for safety-sensitive employees in Transit Operations positions as well as under this policy.