

TOWN OF PIERCEFIELD  
POLICY AND PROCEDURES MANUAL

**APPENDIX L**

**Policy on Drug and Alcohol Testing**

**I. Purpose**

To establish a Town based alcohol and drug testing program to help prevent accidents and injuries resulting from motor vehicles in compliance with the Department of Transportation Regulations at 49 CFR Part 40, and 49 CFR Part 382, and pursuant to The Omnibus Transportation Employee Testing Act of 1991, enacted October 28, 1991.

**II. Applicability**

This policy applies to all Town employees who operate commercial motor vehicles and are subject to the commercial driver's license (CDL) requirements established by the DOT.

**III. Objectives**

1. To establish rules and procedures to deter all illegal drug use
2. To deter on-duty and post-accident alcohol use
3. To deter on-duty alcohol impairment stemming from pre-duty use for all covered drivers who perform safety sensitive functions
4. To detect and eliminate the possibility that Town covered drivers will perform safety-sensitive functions after testing positive for alcohol or drugs
5. To comply with applicable Federal and State laws, including the Omnibus Transportation employee Testing Act of 1991
6. To provide reasonable measures for the early detection of personnel not fit to perform activities within the scope of this policy
7. To maintain a workplace free of drugs and alcohol
8. To inform employees through education, in-service training and other appropriate forums, about illegal drugs, and alcohol abuse, their use, possession, distribution, and the effects of such substances.

**IV. Definitions** (in Alphabetical Order)

**Alcohol** - The intoxication agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl and isopropyl alcohol.

**Alcohol Use** - The consumption of any beverage, mixture, or preparation, including any medication containing alcohol.

**Breath Alcohol Concentration (BAC)** - The amount of alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath indicated by an evidential breath test.

**Breath Alcohol Technician (BAT)** - An individual who operates an evidential breath testing device and instructs and assists individuals in the alcohol testing process.

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**Commercial Motor Vehicle** - A motor vehicle or a combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- has a gross combination weight of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds, or
- has a gross vehicle weight rating of 26,001 or more pounds, 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 to the motor vehicle to be placarded under the Hazardous Material Regulations (49 CFR Part 172, Subpart F).

**Confirmation Test** - In drug testing, a second analytical procedure to identify the presence of a specific drug or metabolite that is independent of the screening test and that uses a different technique and chemical principle from that of a screening test in order to ensure reliability and accuracy. Gas Chromatography/Mass Spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine. In alcohol testing, a second test following a screening test with a result of 0.02 or greater, that provides a quantitative data of alcohol concentration.

**Covered Driver** - Town employees who operate commercial motor vehicles and applicants for employment with the Town who are applying for positions as drivers of commercial vehicles (for the purposes of pre-duty testing only)

**Drug and Alcohol Coordinator** – The Drug and Alcohol Coordinator shall be the Jefferson-Lewis BOCES Health and Safety Coordinator, Mr. John Warneck, located at 20104 NYS Re 3 Watertown, NY 13601, (315) 788 0400.

**Evidential Breath Testing Device (EBT)** - A device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's Conforming Products List (CPL) of Evidential Breath Measurement Devices.

**Medical Review Officer (MRO)** - A licensed physician responsible for receiving laboratory results generated by the Town's drug test program, who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's positive test result together with his or her medical history and any other relevant biomedical information.

**Refuse to Submit (to an alcohol or drug test)** - A covered driver who:

- fails to provide adequate breath for alcohol testing as required by 49 CFR part 40, without valid medical explanation, after he or she has received a notice of the requirement for the breath testing in accordance with the DOT regulations, or
- fails to provide an adequate urine sample for drug testing as required by 49 CFR part 40, without a genuine inability to provide a specimen (as determined by medical evaluation), after he/she has received notice of the requirement for urine testing in accordance with the provisions of the DOT regulations, or
- engages in conduct that clearly obstructs the testing process, or

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- otherwise refuses to submit will be classified as having refused to submit to an alcohol or drug test. A refusal to submit either to an alcohol or to a drug test will carry the same consequences as a failure of a required test.

**Screening Test** - An analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his or her system; in drug testing, an immunoassay procedure to eliminate “negative” urine specimens from further consideration.

**Safety Sensitive Function** - Any of those on-duty functions (promulgated at 49 CFR §395.2 On-Duty time) as listed below:

1. All time at a carrier or shipper plant, terminal facility, or other property, waiting to be dispatched, unless the driver had been relieved from duty by the Town.
2. All time inspecting equipment as required by the Federal Motor Carrier Safety Regulations (FMCSR’s) or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time.
3. All time spent at the driving controls of a commercial motor vehicle in operation.
4. All time, other than driving, time, spent on or in a commercial motor vehicle (except for time spent resting in the sleeper berth).
5. All time spent loading or unloading a commercial motor 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.
6. All time spent performing the driver’s requirements associated with an accident promulgated at 49 CFR §§392.40 and 392.41.
7. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

**Substance Abuse Professional (SAP)** - a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug-related disorders.

**V. Testing**

There are several occasions when an individual will be subject to drug and alcohol tests pursuant to this policy. Prior to the administration of the following tests, the Town or its testing agent will notify the covered driver that the test is required under the Code of Federal Regulations. The testing occasions shall include:

**Pre-Duty Testing**

Pre-duty testing is testing for alcohol and drugs that the Town will administer after a conditional offer or employment has been extended and prior to any covered driver’s performance of a safety-sensitive function. The Town will not allow any covered driver to commence the

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performance of any safety-sensitive function unless the alcohol testing reveals an alcohol concentration of less than 0.04 and the drug testing reveals a verified negative test result. If the pre-duty alcohol test reveals an alcohol concentration of 0.02 or greater, but less than 0.04, the covered driver will not be allowed to perform safety sensitive functions for 24 hours following the administration of the test. In addition, independent of the requirements of the Omnibus Transportation Employee Testing act of 1991 and the regulations promulgated thereunder, if the pre-duty alcohol test reveals an alcohol concentration of 0.02 or greater, it will result in a revocation of the conditional offer of employment. Also independent of the Omnibus Transportation Employee Testing Act of 1991 and the regulations thereunder, if the pre-duty drug testing reveals a presence of drugs, it will result in the revocation of the conditional offer of employment. The Town may, in its sole discretion, forego pre-duty testing where the exceptions promulgated at DOT 49 CFR §382.301 (b) or (c), relating to drug and alcohol testing of covered drivers by their previous employers, are satisfied.

**Reasonable Suspicion Testing**

1. Reasonable suspicion testing is alcohol and drug testing that the Town will conduct when it has reasonable suspicion to believe that a covered driver has engaged in conduct prohibited by this policy. (Reasonable suspicion testing will not be conducted based upon the suspicion that a covered driver has violated the provision of this policy prohibiting covered drivers from being on-duty or operating commercial motor vehicles while the driver possesses un-manifested alcohol). Reasonable suspicion must be based upon specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of a covered driver by the Superintendent of Highways or Town Supervisor of such programs or any other Supervisor determined by the Town who is specially trained to recognize alcohol misuse or drug use.
2. The Town shall not administer a reasonable suspicion alcohol test more than eight hours following a determination that a reasonable suspicion exists to believe that the alcohol prohibitions of this policy have been violated. Notwithstanding the absence of a reasonable suspicion alcohol test, the Town will not permit any covered driver to report for duty or remain on duty requiring the performance of a safety-sensitive function while the driver is under the influence of, or impaired by, alcohol as shown by the behavioral, speech, and performance indicators of alcohol misuse, until an alcohol test is administered and the driver's alcohol concentration measures less than 0.02, or 24 hours have elapsed following a determination that reasonable suspicion exists to believe that the alcohol prohibitions of this policy have been violated.
3. A written record shall be made of observations leading to reasonable suspicion, signed by the Supervisor or person who made the observations, within 24 hours of the observed behavior or before the results of drugs test are released, whichever is earlier.

Covered drivers are subject to reasonable suspicion alcohol testing as follows: immediately prior to performing safety-sensitive functions, while performing safety-sensitive functions, or

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4. immediately following the performance of safety-sensitive functions. Reasonable suspicion drug testing may be conducted at any time the covered driver is on duty for the Town.

**Random Testing**

Random testing is unannounced testing for alcohol and drugs administered in a statistically random manner throughout the year to covered drivers employed by the Town in ratios as required by the DOT regulations, so that all covered drivers have an equal probability of selection each time a random test is administered.

Covered drivers are subject to random alcohol testing as follows: immediately prior to performing safety-sensitive functions, or while performing safety-sensitive functions, or immediately following the performance of safety-sensitive functions. Random drug testing may be conducted at any time the covered driver is on duty for the Town.

**Post-Accident Testing**

A post-accident test is a test for alcohol and drugs administered following an accident involving a commercial motor vehicle to each surviving covered driver:

1. who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life;
2. who receives a citation under State or Local law for a moving violation arising from the accident;
3. if the accident resulted in one or more motor vehicles incurring substantial structural damages as a result of the accident;
4. if the accident resulted in bodily injury to a person who as a result of the injury
5. The Town will not administer a post-accident alcohol test more than eight hours following the accident and will not administer a post-accident drug test more than 32 hours following the accident. A covered driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the Town to have refused to submit to testing. This shall not be construed to require the delay of necessary medical attention for injured individuals from leaving the scene or an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.
6. The results of a breath or blood test for the use of alcohol or a urine test for the use of drugs, conducted by Federal, State, or Local officials having independent authority for the test, shall be considered to meet the requirements of the policy concerning post-accident testing, provided such tests conform to applicable Federal, State, or Local requirements and that the results of the test are obtained by the Town.

**Return to Duty Testing**

Return to duty testing is alcohol and drug testing conducted after a covered driver has engaged in prohibited conduct under this policy, completed counseling prescribed by a substance abuse professional, if any, and prior to his return to the performance of a safety-sensitive function.

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Before a covered driver may return to the performance of safety-sensitive functions, he/she must undergo Return to Duty testing with an alcohol test result indicating an alcohol concentration of less than .02 and /or a drug test indicating a verified negative result for all drugs.

**Follow-up Testing**

Follow-up tests are given following a determination by the Substance Abuse Professional (SAP) that a driver is in need of assistance in resolving problems associated with misuses of alcohol and/or drugs. This is an unannounced test, given at least six times within 12 months with the actual frequency and number of tests determined by the SAP, but in no event may the follow-up testing continue for a period beyond 60 months from the covered driver's return to duty. The SAP may terminate the requirement of follow-up testing at any time after the first six tests have been administered if (s)he determines that follow-up testing is no longer necessary.

Covered drivers are subject to follow-up alcohol testing as follows: immediately prior to perform in safety-sensitive functions, or while performing safety-sensitive functions, or immediately following the performance of safety-sensitive functions. Follow-up drug testing may be conducted at any time the covered driver is on duty for the Town.

**VI. Drug & Alcohol Testing Procedures**

**Alcohol**

1. Alcohol testing will be administered by a Breath Alcohol Technician (BAT) who has completed the equivalent of the DOT's model course, as determined by the National Highway and Traffic Administration, and who is trained in utilizing an evidential breath testing device (EBT) that conforms to the DOT requirements. The EBT used for testing shall meet the standards promulgated by the DOT and have a quality assurance plan (QAP) developed by the manufacturer to insure proper calibration. Testing will be conducted in a location that affords visual and aural privacy to the individuals being tested.
2. If the initial test reveals an alcohol concentration of 0.02 or greater, a confirmatory test must be performed. The confirmatory test result is the final test result for the purposes of this policy. If the final test result reveals an alcohol concentration greater than 0.02 but less than 0.04, the covered driver will be suspended from performing safety-sensitive functions for 24 hours. If the alcohol concentration is 0.04 or greater the covered driver will be suspended from the performance of safety sensitive functions for an indefinite period. (For an in-depth explanation of the alcohol testing procedures please refer to Appendix B department of Transportation 49 CFR part 40 Subpart C).
3. Employees covered by this policy will be tested for alcohol by a BAT using an EBT device. Split sample urine testing will be the method used for testing for controlled substances.

The services of Comprehensive Care and compliance, Watertown, NY will be retained to perform collection, testing, chain of custody to ensure the correct employee is tested and matched with the correct test results. Comprehensive Care and Compliance will provide the Medical Review Officer (MRO). Comprehensive Care and Compliance will be required to

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4. follow the Federal regulations to ensure compliance with the blind sample, calibration of the EBT, laboratory certification and proper training of the BAT. Testing of alcohol and/or controlled substances will be taken on-site or at the laboratory, in a secure location and with the proper safeguards to ensure the integrity of the specimens collected.
5. If a specimen tests positive, the employee will be contacted by the MRO who will discuss his/her findings with the employee. If the MRO is not convinced that there is a reasonable cause for the positive finding, then the employee will be given the opportunity to have the second split sample tested. The cost for testing this split sample will be the employee's responsibility.

**Drugs**

1. A Department of Health and Human Services certified laboratory will perform drug testing on urine samples provided by covered drivers. The drugs for which tests will be conducted are:
  - Marijuana (THC)
  - Cocaine
  - Phencyclidine (PCP)
  - Opiates
  - Amphetamines
2. The cutoff levels for these drugs will be those set forth in the DOT regulation.
3. The Town will contract with the certified laboratory to insure that the collection, shipment, testing, and chain of custody procedures insure the integrity of the testing process in accordance with the procedures set forth in the regulations.
4. The split sample urine testing will be utilized. This method requires that the urine specimen be divided into two samples providing one sample for preliminary screening and initial confirmation, and a second sample for the second test if needed at a later date. Independent of the requirements of the Omnibus Transportation Employee Testing Act of 1991 and the regulations promulgated thereunder, the Town requires that the cost for testing this split sample will be the covered driver's responsibility if the covered driver elects to have the second sample tested.
5. The MRO will conduct a final review of all positive test results to assess possible alternative medical explanations for the positive test results. (For an in-depth explanation of the drug testing procedures please refer to Appendix B Department of Transportation 49 CFR part 40 Subpart B).

**Alcohol and Drug**

The Town will ensure that alcohol and drug test information is maintained in a confidential manner in conformity with the Department of Transportation Rule 49 CFR part 40.

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The Town will ensure that all contracts between the Town and any other entity involved in the alcohol and drug testing program will comply with the procedures set forth in the Department of Transportation 49 CFR part 40.

The Town will conform to the requirements in the Department of Transportation 49 CFR part 40 in all aspects.

**Uncompleted Testing**

If a screening or confirmation test cannot be completed, or if an event occurs that would invalidate the test, the BAT shall, if practicable begin a new screening or confirmation test, as applicable, e.g. using a new breath alcohol testing form with a new sequential test number (in the case of a screening test conducted on an EBT that meets requirements of 4.53(b) or in the case of a confirmation test.)

**VII. Refusal to Submit to testing**

A covered driver shall not refuse to submit to a post-accident alcohol or drug test required under this policy, a random alcohol or drug test required under this policy, a reasonable suspicion alcohol or drug test required under this policy or a follow-up alcohol or drug test required under this policy. The Town will not permit any covered driver to perform safety-sensitive functions subsequent to a refusal to submit to a test required under the policy until the individual is evaluated by a substance abuse professional and completes a substance abuse program designed by a substance abuse professional, if any and undergoes a return to duty alcohol test revealing an alcohol concentration of less than 0.02 and a drug test with a verified negative result. In other words, a refusal to submit to testing is the equivalent of an alcohol test revealing an alcohol concentration of 0.04 or greater or a drug test with a positive result. A refusal to be tested shall be defined as a refusal by an employee to complete and sign the breath alcohol testing form or to complete the drug screening chain of custody form, to provide breath, to provide an adequate amount of breath, to provide an adequate amount of urine, or otherwise to cooperate with the testing process in a way that prevents the completion of the test. The BAT or collector shall record such refusal in the remarks section of the form. The testing process shall then be terminated and the BAT or collector shall immediately notify the Town.

**VIII. Prohibited Conduct**

**Alcohol**

1. No covered driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. The Town shall not permit a covered driver to perform or continue to perform safety-sensitive functions if it has actual knowledge that a driver has an alcohol concentration of 0.04 or greater.
2. A covered driver shall not be on duty or operate a commercial motor vehicle while the covered driver possesses alcohol.



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3. A covered driver shall not use alcohol while performing safety-sensitive functions. The Town shall not permit a driver to perform or continue to perform safety-sensitive functions if it has actual knowledge that a driver is using alcohol while performing
4. safety-sensitive functions. No covered driver shall perform safety-sensitive functions within six hours after using alcohol. The Town shall not permit a driver to perform or continue to perform safety-sensitive functions if it has actual knowledge that a driver has used alcohol within six hours.
5. A covered driver required to take a post-accident alcohol test shall not use alcohol for eight hours following the accident or until he/she undergoes a post-accident alcohol test whichever is first.

**Drugs**

A covered driver shall not report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver is using drugs, except when the use is pursuant to the instructions of a physician who has advised the driver that the drug does not affect the driver's ability to safely operate a commercial motor vehicle. The Town shall not permit a covered driver to report for duty or remain on duty requiring the performance of safety-sensitive functions if the Town has actual knowledge that the driver is using drugs, except when the use is pursuant to the instructions of a physician who has advised the driver that the drug does not affect the driver's ability to safely operate a commercial motor vehicle.

Independent of the requirements of the Omnibus Transportation Employer Testing Act of 1991 and the regulations promulgated thereunder, the covered driver must notify the Town that he/she is using controlled substances pursuant to the instructions of the physician who as advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle.

New York Vehicle and Traffic Law Section 509-(1)(a) provides that "No person shall consume a drug, controlled substance, or an intoxicating liquor, regardless of its alcoholic content, or be under the influence of an intoxicating liquor or drug, within six hours before going on duty or operating or having physical control of a bus." This policy does not allow covered drivers to consume alcoholic beverages in violation of the requirements of New York law, which are stricter than the DOT regulations in this particular instance and should not be construed to 1

**IX. Referral, Evaluation, and Treatment**

1. The Town shall make available to the covered driver information regarding the resources available for evaluating and resolving problems associated with the misuse of alcohol and use of drugs, including the names, addresses and telephone numbers of substance abuse professionals and counseling and treatment programs.
2. The Town requires that each covered driver who engages in conduct prohibited by this policy shall be evaluated by a SAP who shall determine what assistance, if any the employee needs .

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in resolving problems associated with alcohol misuse and drug use. The costs associated with this evaluation shall be the responsibility of the covered driver.

3. Before a covered driver returns to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibited by this policy, the covered driver shall undergo a return to duty alcohol test with a result indicating an alcohol concentration of less than 0.02 if the conduct involved alcohol, or a drug test with a verified negative result if the conduct involved drugs.
4. Each covered driver identified as needing assistance in resolving problems associated with alcohol misuse or drug use shall:
  - a) be evaluated by a SAP to determine if the covered driver has properly followed any rehabilitation program prescribed under paragraph 2 of this section
  - b) be subjected to unannounced follow-up alcohol and drug tests administered by the Town following the covered driver's return to duty. The number and frequency of the follow-up tests shall be as directed by the SAP and consist of at least six tests in the first 12 months following the covered driver's return to duty. The town may direct the covered driver to undergo return-to-duty and follow-up testing for both alcohol and drugs, if the SAP determines that return-to-duty and follow-up testing for both alcohol and drugs is necessary for that particular covered driver. Such testing shall be in conformance with this policy and the DOT regulations. Follow-up testing shall not exceed 60 months from the date of the covered driver's return to duty. The SAP may terminate the requirement at any time after the first six tests have been administered, if the SAP determines that such testing is no longer necessary.
  - c) The evaluation and rehabilitation may be provided by the Town, by a SAP under contract with the Town, or by a SAP not affiliated with the Town. The choice of a SAP shall be that of the Town and costs affiliated with evaluation and treatment shall be the responsibility of the covered driver.
  - d) The Town requires that a SAP who determines that a covered driver requires assistance in resolving problems with alcohol misuse or drug use does **not** refer the covered driver to the SAP's private practice, or to a person or organization from which the SAP receives remuneration, or in which the SAP has a financial interest.
  - e) The requirements of this section with respect to referral, evaluation and rehabilitation do not apply to applicants who refuse to submit to a pre-duty alcohol or drug test, or who have a pre-duty alcohol test with a result indicating an alcohol concentration of 0.04 or a drug test with a verified positive test result.

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**X. Consequences for Covered Drivers**

1. A covered driver shall not perform safety-sensitive functions, including driving a commercial motor vehicle, if the covered driver has engaged in conduct prohibited by this policy or an alcohol or drug rule of any DOT agency.
2. The Town will not permit any driver to perform safety-sensitive functions, including driving a commercial motor vehicle, if said driver has tested positive for alcohol and/or drugs. The town will not permit any covered driver found to have an alcohol concentration of at least 0.02 and less than 0.04 to perform safety-sensitive functions for 24 hours following the administration of the test. A covered driver found to have an alcohol concentration o 0.02 or greater but less than 0.04 shall receive a 24 hour suspension from the performance of safety-sensitive functions.
3. Covered drivers who violate this policy will be suspended from the performance of safety-sensitive functions and referred to a SAP. Before a covered driver may resume the performance of safety sensitive functions for the Town, a SAP must certify that the covered driver has evaluated and completed and substance abuse program prescribed. In addition, the covered driver must pass an alcohol test with an alcohol concentration of less than 0.02 and/or a drug test prior to the return to the performance of safety-sensitive functions.
4. Independent of the requirements of the Omnibus Transportation Employee Testing ace of 1991 and the regulations promulgated thereunder, covered drivers who have been found to have violated the prohibited conduct under this policy:
  - a) Will be immediately suspended from their safety-sensitive function without pay
  - b) If the violation is for the illegal use of drugs in violation of this policy and after a review of all pertinent facts leading to the suspension, the covered driver shall be terminated
  - c) If a covered driver refuses to submit to a post-accident drug test, a reasonable suspicion drug test, a random drug test, or a follow-up drug test, the covered driver shall be terminated.
  - d) If the covered driver's alcohol concentration, as measured by an alcohol test is 0.02 or greater , but less than 0.04, the covered driver shall be advised to seek assistance and/or counseling from a substance abuse professional. such an infraction shall result in a suspension without pay pending a review of the employee's work record for determination by the Town of the appropriate disciplinary action, up to and including discharge
  - e) If the covered driver's alcohol concentration, as measured by an alcohol test is 0.04 or greater, the covered shall be advised to seek assistance and/or counseling from a SAP. Such an infraction shall result in a suspension without pay pending a review of the employee's work record. After a review of all pertinent facts leading to the suspension and a positive test result from the MR, the covered driver shall be terminated

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- f) If the covered driver refuses to submit to a post-accident alcohol test, a reasonable suspicion alcohol test, a random alcohol test, or a follow-up alcohol test, the covered driver shall be directed to seek assistance and/or counseling from a SAP. If a covered driver refuses to submit to alcohol testing under this policy, such action shall result in a suspension without pay pending a review of the employee's work record for a determination by the Town of the appropriate disciplinary action, up to and including discharge.
- g) The above actions shall be taken in accordance with the provisions of the employee's collective bargaining agreement, §75 of the Civil Service Law, §3020-a of Education Law, whichever is applicable.

**XI. Employee Notification**

The Town shall provide a copy of this policy to each covered driver and to his/her collective bargaining agent. Each covered driver is required to sign a statement certifying that (s)he has received this information. The Town shall maintain the original signed certification for a minimum of two years. The Town will provide a copy of the certification to the covered driver upon request.

**XII. Savings Clause**

If any provision of this policy is determined in a tribunal of competent jurisdiction to be inconsistent with any superseding legal requirements, that provision shall be considered modified or deleted so as to comply with the superseding legal requirements, without any effect on the remaining policy provisions.

Board Adopted \_\_\_\_\_  
Date