	TOWN OF PARADISE VALLEY Administrative Policy	
	Title: DRUG- AND ALCOHOL-FREE WORKPLACE	Policy No. AP-04.4
Policy Owner: Gina Monger, Human Resources Director		
Approved By: Andrew Ching, Town Manager		
Authorized By: <i>Chapter 4: Code of Conduct, Town Employee Handbook</i>	Revision History: 05/17/1999	Effective Date: 06/23/2024

1. PURPOSE

- 1.1. This policy will provide further guidance for the administration of the provisions as authorized by *Chapter 4: Code of Conduct* of the *Town of Paradise Valley* (hereinafter referred to as the "Town") *Employee Handbook*.
- 1.2. The policy complies with the *Code of Federal Regulations (CFR) 49, Part 40-Procedures for Transportation Workplace Drug and Alcohol Testing Programs* and *Part 382-Controlled Substances and Alcohol Use and Testing*, as required by the US Department of Transportation (USDOT) and the Federal Motor Carrier Safety Administration (FMSCA).
- 1.3. This policy also complies with the *Drug-Free Workplace Act of 1988*.
- 1.4. The Town is committed to delivering outstanding services to its residents by providing and maintaining a safe work environment. The Town provides a drug and alcohol-free workplace.
- 1.5. Portions of this policy are not USDOT-mandated but reflect the Town's policy are underlined.

2. DRUG-FREE WORKPLACE ACT OF 1988

- 2.1. All Town employees are subject to the provisions of the *Drug-Free Workplace Act of 1988*.
- 2.2. The unlawful manufacture, distribution, dispensation, possession, or use of a controlled or illegal substance is prohibited in the workplace. Any violation of this subsection may result in discipline, up to and including dismissal.
- 2.3. An employee who is convicted of any criminal controlled substance statute for a violation occurring in the workplace will notify Human Resources or their department director no later than five calendar days after such conviction.

3. FMCSA COMPLIANCE

- 3.1. All commercial driver's license (CDL) drivers, including full-time, part-time, intermittent, backup, and international drivers, who operate Town commercial motor vehicles (CMV) are:
 - 3.1.1. Subject to the CDL requirements on public roads in the U.S.
 - 3.1.2. Performing safety-sensitive functions.
 - 3.1.3. Subject to USDOT controlled substance and alcohol testing.

3.1.4. Subject to the Town's controlled substance and alcohol testing requirements as defined in this policy.

3.1.5. The list of positions that require CDLs and are subject to this policy are listed in Appendix A of this policy.

3.2. Non-CDL Police Department personnel are subject to the requirements as set forth in the drug and alcohol Police Department General Order.

3.3. The Town has assigned the Human Resources Director as the Designated Employer Representative (DER) for the purposes of administering the provisions of this policy. The DER's contact information is provided in Appendix A of this policy.

4. DEFINITIONS

4.1. **Adulterated specimen:** A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

4.2. **Accident:** The term accident does not apply to events involving boarding and alighting from a stationary vehicle, or those involving the loading or unloading of cargo, but is an event involving a CMV that results in:

4.2.1. A fatality.

4.2.2. Injury to a person who needs immediate medical treatment away from the accident site.

4.2.3. One or more vehicles being disabled due to the accident.

4.3. **Actual knowledge:** Actual knowledge by the Town that a driver has used alcohol or controlled substances based on the Town's direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances or an employee's admission of alcohol or controlled substance use. 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. As used in this section, "traffic citation" means a ticket, complaint, or other document charging driving a CMV while under the influence of alcohol or controlled substances.

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

4.5. **Breath alcohol technician (BAT):** A person who instructs and assists employees in the alcohol testing process and operates an evidential breath testing device.

4.6. **Cancelled test:** A controlled substance or alcohol test that has a problem identified that cannot be or has not been corrected, or which this part otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.

4.7. **Controlled substance (drug):** Substances defined in § 40.82, as amended:

4.7.1. Marijuana metabolites

4.7.2. Cocaine metabolites

4.7.3. Amphetamines and methamphetamines

4.7.4. Opiates – opium and codeine derivatives

4.7.5. Phencyclidine (PCP)

4.8. **Conviction:** An unvacated adjudication of guilt or failure to comply with the law.

4.9. **Designated Employer Representative (DER):** The Town's appointed employee to exercise authority to remove a driver from safety-sensitive functions or by causing the driver to be removed from performing these functions. This person must be an employee of the Town and cannot be delegated to a consortium/third-party administrator (C/TPA).

4.10. **Dilute specimen:** A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

4.11. **Disabling damage:** Damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

4.11.1. **Inclusions:** Damage to motor vehicles that could have been driven but would have been further damaged if so driven.

4.11.2. **Exclusions**

4.11.2.1. Damage which can be remedied temporarily at the scene of the accident without special tools or parts.

4.11.2.2. Tire disablement without other damage even if no spare tire is available.

4.11.2.3. Headlight or taillight damage.

4.11.2.4. Damage to turn signals, horn, or windshield wipers which make them inoperative.

4.12. **Driver:** Any person who operates a commercial motor 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.

4.13. **Driveaway-towaway operation:** Operation in which an empty or unladen motor vehicle with one or more sets of wheels on the surface of the roadway is being transported:

4.13.1. Between vehicle manufacturer's facilities.

4.13.2. Between a vehicle manufacturer and a dealership or purchaser.

4.13.3. Between a dealership, or other entity selling or leasing the vehicle, and a purchaser or lessee.

4.13.4. To a motor carrier's terminal or repair facility for the repair of disabling damage (as defined in §390.5) following a crash.

4.13.5. To a motor carrier's terminal or repair facility for repairs associated with the failure of a vehicle component or system.

4.13.6. By means of a saddle-mount or tow-bar.

4.14. **Invalid result:** The result reported by a US Department of Health and Human Services (HHS)-certified in accordance with the criteria established by the HHS when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

4.15. **Medical review officer (MRO):** A licensed physician who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.

- 4.16. Negative result:** The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.
- 4.17. Non-negative specimen:** A specimen that is reported as adulterated, substituted, positive (for drug(s) or drug metabolite(s)), or invalid.
- 4.18. Oral fluid specimen:** A specimen that is collected from an employee's oral cavity and is a combination of physiological fluids produced primarily by the salivary glands. An oral fluid specimen is a direct-observation collection. Same-gender observer is not required to be present during oral fluid collection.
- 4.19. Positive result:** The result reported by an HHS-certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentrations.
- 4.20. Safety-sensitive function:** All time from the time a driver begins to work or is required to be in readiness to work until the time they are relieved from work and all responsibility for performing work. Safety-sensitive functions include all time:
- 4.20.1.** At an employer 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.
 - 4.20.2.** Inspecting equipment or otherwise inspecting, servicing, or conditioning any CMV at any time.
 - 4.20.3.** Spent at the driving controls of a CMV in operation.
 - 4.20.4.** Other than driving time, in or upon any CMV, except time spent resting in a sleeper berth.
 - 4.20.5.** 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.
 - 4.20.6.** Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
- 4.21. Split specimen:** In drug testing, the specimen that is sent to a first laboratory and stored with its original seal intact, and which is transported to a second laboratory for retesting at the employee's request following MRO verification of the primary specimen as positive, adulterated, or substituted.
- 4.22. Stand-down:** 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 result.
- 4.23. Substance Abuse Professional (SAP):** A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare. SAPs are not used for non-DOT controlled substance and alcohol violations.
- 4.24. Substituted specimen:** An employee's specimen not consistent with a normal human specimen, as determined by HHS (e.g., a urine specimen, with creatinine and specific gravity values that are so diminished, or so divergent that they are not consistent with normal human urine).
- 4.25. Undiluted (neat) oral fluid:** An oral fluid specimen to which no other solid or liquid has been added. For

example: A collection device that uses a diluent (or other component, process, or method that modifies the volume of the testable specimen) must collect at least 1 mL of undiluted (neat) oral fluid.

5. EFFECTS OF ALCOHOL AND CONTROLLED SUBSTANCES

The Town will provide information to all drivers concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem (the driver's or a co-worker's); and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program and/or referral to management.

6. PROHIBITIONS

6.1. No driver will 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 having knowledge that a driver has an alcohol concentration of 0.04 or greater will not permit the driver to perform or continue to perform safety-sensitive functions.

6.2. No driver will perform safety-sensitive functions within four hours after using alcohol. The Town having actual knowledge that a driver has used alcohol within four hours will not permit a driver to perform or continue to perform safety-sensitive functions.

6.3. No driver will report for duty or remain on duty requiring the performance of safety sensitive functions when the driver uses any drug or substance identified in *21 CFR 1308.11 Schedule I*, including marijuana.

6.3.1. Hemp-derived products containing a concentration of up to 0.3% tetrahydrocannabinol (THC) are not controlled substances. Any product, including "Cannabidiol" (CBD) products, with a concentration of more than 0.3% THC remains classified as marijuana, a Schedule I drug under the Controlled Substances Act.

6.4. No driver will report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any non-Schedule I drug or substance that is identified in the other *Schedules in 21 CFR part 1308* except when the use is prescribed by a licensed medical practitioner, who is familiar with the driver's medical history and has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

6.5. The Town having actual knowledge that a driver has used a controlled substance, will not permit the driver to perform or continue to perform a safety-sensitive function, except when the use is prescribed by a *licensed medical practitioner*, who is familiar with the driver's medical history and has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

6.6. The Town may require a driver to inform the employer of any therapeutic drug use.

6.7. No driver will report for duty, remain on duty, or perform a safety-sensitive function, if the driver tests positive or has adulterated or substituted a test specimen for controlled substances. The Town having knowledge that a driver has tested positive or has adulterated or substituted a test specimen for controlled substances will not permit the driver to perform or continue to perform safety-sensitive functions.

6.8. No driver will refuse to submit to any of the following tests:

6.8.1. Pre-employment controlled substance

- 6.8.2. Post-accident alcohol or controlled substance
- 6.8.3. Random alcohol or controlled substances
- 6.8.4. Reasonable suspicion alcohol or controlled substance
- 6.8.5. Return-to-duty alcohol or controlled substances
- 6.8.6. Follow-up alcohol or controlled substance

6.9. The Town will not permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.

7. **MARIJUANA AND CANNIBIDIOL PRODUCTS**

7.1. Medicinal and/or recreational use of marijuana is permitted under Arizona law; however, it remains illegal under federal regulations.

7.2. Cannabidiol (CBD) products with a concentration of more than 0.3% of tetrahydrocannabinol (THC) remain classified as a Schedule 1 drug under the Controlled Substances Act. CBD products with a concentration up to 0.3% are legal; however, employees should use extreme caution consuming CBD products as the Federal Drug Administration (FDA) does not currently certify the levels of THC in CBD products, consequently there is no federal oversight to ensure the accuracy of the amount of THC in any product.

7.3. A positive test result for marijuana metabolites resulting from the consumption of any substance, constitutes a violation of this policy.

8. **PRE-EMPLOYMENT DRUG TESTING**

8.1. Pre-employment drug tests are conducted after making a contingent offer of employment or transfer.

8.2. If a driver has not performed a safety-sensitive function for 30 or more consecutive calendars days, and has not been in the random testing pool during that time, the driver must take and pass a pre-employment drug test before they can return to a safety-sensitive function.

8.3. The Town will not allow a driver, who the employer intends to hire or use to perform safety-sensitive functions unless the Town has received a controlled substances test result from the MRO or C/TPA indicating a verified negative test result for that driver.

8.4. If a pre-employment test is cancelled, the individual will be required to undergo another test and successfully pass with a verified negative result before performing safety-sensitive functions.

8.5. An applicant with a verified positive pre-employment drug test will have the Town offer of employment rescinded and will not be hired. Town employees who do not pass the pre-employment tests will be denied their transfer and be subject to discipline in accordance with this policy.

8.6. Except as provided for in Subsection 3.2, the Town does not conduct USDOT pre-employment alcohol testing.

9. **POST-ACCIDENT TESTING**

9.1. As soon as practicable following an occurrence involving a CMV operating on a public road in commerce, the Town will test for alcohol for each of its surviving drivers:

9.1.1. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the

loss of human life.

9.1.2. Who receives a citation within 8 hours of the occurrence under state or local law for a moving traffic violation arising from the accident, if the accident involved:

9.1.2.1. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident.

9.1.2.2. One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

9.2. As soon as practicable following an occurrence involving a CMV operating on a public road in commerce, the Town will test for controlled substances for each of its surviving drivers:

9.2.1. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life.

9.2.2. Who receives a citation within 32 hours of the occurrence under state or local law for a moving traffic violation arising from the accident, if the accident involved:

9.2.2.1. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident.

9.2.2.2. One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

9.3. A driver who is subject to post-accident testing will remain readily available for such testing or may be deemed by the Town to have refused to submit to testing. Nothing in this section will be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

9.4. No driver required to take a post-accident alcohol test will use alcohol for eight hours following the accident, or until they undergo a post-accident alcohol test, whichever occurs first.

9.5. The Town will provide drivers with necessary post-accident information, procedures, and instructions, prior to the driver operating a CMV, so that drivers will be able to comply with the requirements of this section.

9.6. The results of a breath or blood test for the use of alcohol, conducted by federal, state, or local law enforcement or public safety officials having independent authority for the test, will be considered to meet the requirements of this section, provided such tests conform to the applicable federal, state, or local alcohol testing requirements, and that the results of the tests are obtained by the Town.

9.7. The results of a urine test for the use of controlled substances, conducted by federal, state, or local law enforcement or public safety officials having independent authority for the test, will be considered to meet the requirements of this section, provided such tests conform to the applicable federal, state, or local controlled substances testing requirements, and that the results of the tests are obtained by the Town.

9.8. Post-accident testing does not apply to an occurrence involving only the:

9.8.1. Boarding or alighting from a stationary motor vehicle.

9.8.2. Loading or unloading of cargo.

9.8.3. Course of the operation of a passenger car or a multipurpose passenger vehicle by the Town unless the motor vehicle is transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded.

9.9. If an alcohol test is required and is not administered within two hours following the accident, the Town will prepare and maintain a file on record stating the reason(s) the test was not promptly administered. If the alcohol test is not administered within eight hours following the accident, the Town will cease attempts to administer the test and will prepare and maintain the same record.

9.10. If a post-accident controlled substance test is not administered within 32 hours following the accident, the Town will cease attempts to administer the controlled substance test and prepare and maintain on file a record stating the reason(s) why the test was not promptly administered.

9.11. The Town reserves the right to administer non-USDOT post-accident controlled substance and alcohol testing on any Town employee.

10. RANDOM TESTING

10.1. Random controlled substance and alcohol tests are unannounced and unpredictable, and the dates for administering random tests are spread reasonably throughout the calendar year and conducted at all times of the day when safety-sensitive functions are performed.

10.2. Testing rates will meet or exceed the minimum annual percentage rate set each year by the FMCSA. The Town may utilize a service agent (C/TPA) to perform the random selections and such C/TPA will be identified in Appendix A of this policy.

10.3. A driver will only be tested for alcohol while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions. Random controlled substance testing may occur any time while the driver is on duty.

10.4. Upon notification of the selection for random controlled substance and/or alcohol testing, each driver must immediately proceed to the designated testing site.

10.5. Employees assigned to the Criminal Investigative Unit within the Police Department may be subject to random drug testing.

11. REASONABLE SUSPICION

11.1. The Town will require a driver to submit to an alcohol test when the Town has reasonable suspicion to believe that the driver has violated the prohibitions of this policy concerning alcohol.

11.2. The Town will require a driver to submit to controlled substance testing when the Town has reasonable suspicion to believe that the driver has violated the prohibitions of this policy concerning controlled substances.

11.3. The Town will ensure that all persons designated to supervise drivers receive at least 60 minutes of training on alcohol misuse and receive at least an additional 60 minutes of training on controlled substances use.

The training will be used by the supervisors to determine whether reasonable suspicion exists to require a driver to undergo reasonable suspicion testing. The training will include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. Recurrent training for supervisory personnel is not required.

11.4. A written record will be made of the observations leading to an alcohol or controlled substances reasonable suspicion test, and signed by the supervisor or company official who made the observations, within 24 hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier.

11.5. The Town reserves the right to administer non-USDOT reasonable suspicion controlled substance and alcohol testing on any Town employee.

12. TESTING PROCEDURES

12.1. All FMCSA controlled substance and alcohol testing will be conducted in accordance with 49 CFR Part 40, as amended. See Appendix A for the Town's list of contact personnel, collection sites, and C/TPA.

12.2. The procedures that will be used to test for the presence of alcohol and controlled substances, protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver, including post-accident information, procedures, and instructions.

12.3. A supervisor will escort an employee who is subject to reasonable suspicion testing to the testing site and provide a safe ride home to the employee following the testing procedure. The supervisor will remain with the employee for the duration of the testing procedure.

12.4. The Town reserves the right to test for controlled substances in addition to those identified by the USDOT and this policy for non-USDOT tests.

12.5. Testing involving possible criminal charges will be conducted in a manner consistent with the applicable investigative protocols. Such testing will generally be coordinated by the assigned investigative unit.

12.6. Urine and oral fluid specimens are authorized for collection and testing. No DNA testing, to include (but not limited to blood, sweat, and hair) is permitted.

12.6.1. The Town may use one or the other, but not both may be used at the beginning of a testing event. In the event there is a problem in the collection process that necessitates a second collection (e.g., insufficient quantity of urine, temperature out of range, or insufficient saliva), then a different specimen type could be chosen by the Town (i.e., through a standing order or a discussion with the collector) or its service agent (i.e., if there is no standing order and the service agent cannot contact the DER) to complete the collection process for the testing event.

12.6.2. Only urine and oral fluid specimens screened and confirmed at HHS-certified laboratories (see § 40.81) are allowed for drug testing under this part. Point-of-collection (POC) urine, POC oral fluid drug testing, hair testing, or instant tests are not authorized.

12.7. Dilute Urine Specimen

12.7.1. If the MRO informs the Town that a positive controlled substance test was diluted, the Town may treat the test as a verified positive test. The Town will not direct the driver to take another test

because the specimen was diluted.

12.7.2. If the MRO informs the Town that a negative test was dilute, the following action will be taken accordingly:

12.7.2.1. If the MRO directs the Town to conduct a recollection under direct observation (i.e., because the creatinine concentration of the specimen was equal to or greater than 2 mg/dL, but less than or equal to 5 mg/dL, the Town will comply immediately.

12.7.2.2. Otherwise (i.e., if the creatinine concentration of the dilute specimen is greater than 5 mg/dL), the Town will direct the employee to take another test immediately.

12.8. Split Specimen Test

12.8.1. If the MRO notifies the driver that they have a verified positive drug test and/or refusal to test because of adulteration or substitution, the driver has 72 hours from the time of notification to request a test of the split specimen. The request may be verbal or in writing. If the driver makes this request to the MRO within 72 hours, the requirements for a split specimen test are initiated. There is no split specimen testing for an invalid result.

12.8.2. If, the driver does not request a test of the split specimen within 72 hours, the driver may present to the MRO information documenting that serious injury, illness, lack of actual notice of the verified test result, inability to contact the MRO, or other circumstances unavoidably prevented the driver from making a timely request.

12.8.3. The Town will ensure that the split specimen test is conducted in a timely manner.

12.8.4. The Town will pay for the cost of the split specimen test and will arrange for reimbursement by the employee. All costs associated with second testing of the verified positive split specimen are paid by the driver, unless the result of the split specimen test invalidates the positive result of the original test. Retests will not be delayed due to the driver's inability to pay.

13. TEST REFUSALS

13.1. If a driver refuses to take a drug test, the driver will incur the consequences specified under USDOT agency regulations for a violation of those USDOT agency regulations. The consequences specified under USDOT agency regulations for a refusal cannot be overturned or set aside by an arbitration, grievance, state court or other non-federal forum that adjudicates the personnel decisions the Town has taken against the employee.

13.2. A refusal to test is defined as the:

13.2.1. Failure to appear for any test (except a pre-employment test) within a reasonable time, as determined by the Town, consistent with applicable USDOT agency regulations, after being directed to do so by the Town. This includes the failure to appear for a test when called by a C/TPA.

13.2.2. Failure to remain at the testing site until the testing process is complete. Provided that a driver who leaves the collection site before the testing process commences for a pre-employment test is not deemed to have refused to test. The collector is not required to inform the driver that the failure to remain at the collection site is a refusal. If a driver leaves prior to the completion of the testing process, the Town must decide whether the driver's actions constitute a refusal.

- 13.2.3. Failure to provide a specimen for any drug test required. Provided that a driver who does not provide a specimen because have left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test. The collector is not required to inform the driver that the failure to remain at the collection site is a refusal. If a driver leaves prior to the completion of the testing process, the Town must decide whether the driver's actions constitute a refusal.
- 13.2.4. In the case of a directly observed or monitored urine collection in a drug test, failure to permit the observation or monitoring of the driver's provision of a specimen.
- 13.2.5. Failure to provide a sufficient specimen when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.
- 13.2.6. Failure or decline to take an additional drug test the Town or collector has directed the driver to take.
- 13.2.7. Failure 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 driver is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment. If there was no contingent offer of employment, the MRO will cancel the test.
- 13.2.8. Failure to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector, fail to remove objects from mouth, fail to permit inspection of the oral cavity, or fail to complete a rinse when requested).
- 13.2.9. For an observed urine collection, failure by the driver to follow the observer's instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if the driver has any type of prosthetic or other device that could be used to interfere with the collection process.
- 13.2.10. Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
- 13.2.11. Admit to the collector or MRO that the driver adulterated or substituted the specimen.
- 13.2.12. If the MRO reports that the driver have a verified adulterated or substituted test result, the driver has refused to take a drug test.

14. USDOT VIOLATIONS AND CONSEQUENCES

- 14.1. A verified positive USDOT drug test result, a USDOT alcohol test with a result indicating an alcohol concentration of 0.04 or greater, a refusal to test (including by adulterating or substituting a specimen), or any other violation of the prohibition on the use of alcohol or drugs under a USDOT agency regulation constitutes a USDOT drug and alcohol regulation violation. CBD use is not a legitimate medical explanation for a laboratory-confirmed marijuana positive result.
- 14.2. Following a federal violation, the driver will be immediately removed from safety-sensitive duty and dismissed from their employment with the Town, subject to the due process provisions in accordance with the discipline and appeals policy.

14.3. Any driver or applicant who tests positive for controlled substances or alcohol (BAC equal to or above 0.04) or refuses to test will be referred to 2 SAPs by the Town. The Town may use <https://www.saplist.com/find-a-sap> to identify SAPs.

15. TOWN VIOLATIONS AND CONSEQUENCES

15.1. A violation of this policy is a non-USDOT positive controlled substance test result, a non-USDOT positive alcohol test result (BAC equal to or above 0.02), or a non-DOT test refusal. A further violation of this policy is a USDOT alcohol test resulting in a BAC equal to 0.02 but less than 0.04. Failure to adhere to other provisions of this policy is also a violation of this policy.

15.2. Following a positive non-USDOT controlled substance or alcohol test result (BAC equal to or above 0.04), or a test refusal, the employee will be immediately removed from safety-sensitive duty, if applicable, and be dismissed from their employment with the Town, subject to the due process provisions in accordance with the discipline and appeals policy. Employees will be referred to the Town's *Employee Assistance Program* for drug/alcohol support services.

15.3. An employee with an alcohol test result with a BAC equal to 0.02 or above but less than 0.04, will be immediately removed from safety-sensitive duty, as applicable, and subject to disciplinary action up to and including dismissal. Employees who incur additional BAC violations of this nature (equal to or above 0.02 but less than 0.04), as well as other policy violations will be subject to discipline, up to and including dismissal.

16. OFF-DUTY IMPAIRMENT

If the Town becomes aware of an employee involved the use of any illegal or controlled substance, or in a matter involving the use of alcohol, the employee may be subject to random (follow-up) drug and alcohol testing discipline, and subject to discipline, up to and including dismissal.

17. VOLUNTARY SELF-REFERRAL

17.1. The Town urges all its employees to seek help or treatment with an alcohol or chemical dependency problem before their job performance and employment are impacted.

17.2. Prior to being selected or notified to undergo any testing in accordance with this policy and has not refused a controlled substance or alcohol test, any driver who has a controlled substance and/or alcohol abuse problem may voluntarily self-refer to the DER or their department manager. The DER may assist the employee with the referral to a substance abuse counselor through the Town's *Employee Assistance Program (EAP)* for evaluation and treatment.

17.3. All employees who enter a voluntary rehabilitation must agree and adhere to a return-to-work agreement with the Town.

17.4. Any safety-sensitive employee who admits to a controlled substance and/or alcohol problem will immediately be removed from their safety-sensitive functions and will not be allowed to perform such functions until released for safety-sensitive duty by their substance abuse counselor. Employees will continue with their prescribed rehabilitation program until completion. Employees will provide the DER written notice of their successful completion of the prescribed rehabilitation program.

17.5. The cost of any treatment is the responsibility of the employee.

- 17.6. Participation in a voluntary rehabilitation program does not affect USDOT or Town testing requirements or the consequences of positive test results under this policy.
- 17.7. Employees who admit to alcohol misuse or controlled substances use are not subject to the USDOT referral, evaluation, and treatment requirements, provided that:
- 17.7.1. The admission is in accordance with this policy for voluntary self-identification.
 - 17.7.2. The driver does not self-identify to avoid testing under the requirements.
 - 17.7.3. The driver makes the admission of alcohol misuse or controlled substances use prior to performing a safety sensitive function (i.e., prior to reporting for duty).
- 17.8. The driver will not perform a safety sensitive function until the Town is satisfied that the driver has been evaluated and has successfully completed education or treatment requirements in accordance with the self-identification program guidelines.
- 17.9. Prior to the driver participating in a safety sensitive function, the driver will undergo a non-USDOT return-to-duty test with a result indicating an alcohol concentration of less than 0.02; and/or a non-USDOT return-to-duty controlled substance test with a verified negative test result for controlled substances use.
- 17.10. The Town may incorporate employee monitoring and include non-USDOT follow-up testing.

18. **TRAFFIC LAW CONVICTIONS**

Drivers must notify the Town of any local, state, or federal traffic law (non-parking) in any type of motor vehicle within 30 calendar days of conviction, regardless of any pending appeal to the conviction.

19. **FMCSA DRUG AND ALCOHOL CLEARINGHOUSE DATA**

- 19.1. The following personal information collected and maintained in accordance with this policy and USDOT regulations, and will be reported to the *FMCSA Drug and Alcohol Clearinghouse (Clearinghouse)* at <https://clearinghouse.fmcsa.dot.gov>:
- 19.1.1. A verified positive, adulterated, or substituted controlled substance or alcohol test result
 - 19.1.2. An alcohol confirmation test with a concentration of 0.04 or higher
 - 19.1.3. A refusal to submit to any controlled substance or alcohol test
 - 19.1.4. An employer's report of actual knowledge
 - 19.1.5. On-duty alcohol use
 - 19.1.6. Pre-duty alcohol
 - 19.1.7. Alcohol use following an accident
 - 19.1.8. Controlled substance use
 - 19.1.9. SAP report of the successful completion of the return-to-duty process
 - 19.1.10. A negative return-to-duty test
 - 19.1.11. An employer's report of completion of follow-up testing
- 19.2. The Town will conduct a query of the *Clearinghouse* at least once per calendar year for information for all employees subject to controlled substance and alcohol testing to determine whether information exists in the *Clearinghouse* about those employees.

20. RECORDS


- 20.1. Records required under this policy, including test results, will be maintained in a secure location with restricted access in accordance with state and USDOT retention requirements. Upon request, employees will be entitled to receive copies of their own records. Drivers may also release this information to subsequent employers with written authorization.
- 20.2. Information may also be disclosed to relevant state or federal agencies, or in connection with judicial, administrative, or related proceedings initiated by or on behalf of the employee, or where otherwise required by law.
- 20.3. The Town will ensure that each driver and all other employees sign a statement certifying that they have received a copy of this policy. The certification statement will be kept in the driver's personnel file.

21. PRESCRIPTION AND OVER-THE-COUNTER MEDICATIONS

- 21.1. This policy does not prohibit the appropriate use of legally prescribed drugs and non-prescription medications. It is the responsibility of the employee to inform their healthcare provider when prescribed medications that are covered under the terms of this policy. The employee will use medically authorized drugs or over-the-counter medications in a manner which will not impair on-the-job performance. It is also the responsibility of the employee to remove themselves from duty if they are not fit because of adverse effects resulting from medications.
- 21.2. Drivers are responsible for notifying their healthcare provider(s) of their safety-sensitive duties every time a prescription or non-prescription medication is recommended/ordered to ensure their healthcare provider considers these duties during treatment and confirms the employee remains fit-for-duty during usage.
- 21.3. Employees are encouraged to obtain a position description form for their respective position to provide to the healthcare provider to assist them in determining if any medications being prescribed/recommended could potentially impair their ability to perform their safety-sensitive functions.

22. REFERENCE

Appendix A: Designated Employer Representative, FMCSA Certified Positions, and Service Agent(s)

	TOWN OF PARADISE VALLEY Administrative Policy	
	Title: DRUG & ALCOHOL-FREE WORKPLACE	Policy No. AP-04.4
Appendix A		
	Revision History: None	Effective Date: 06/23/2024

DESIGNATED EMPLOYER REPRESENTATIVE

Gina Monger, Human Resources Director
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 480-348-3542

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION (FMCSA) COVERED POSITIONS

Senior Fleet Technician
 Public Works Technician

SERVICE AGENT [CONSORTIUM/THIRD-PARTY ADMINISTRATOR (C/TPA)]

Accredited Drug Testing, Inc.