

## TITLE 4

### MUNICIPAL PERSONNEL<sup>1</sup>

#### CHAPTER

1. SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES.
2. VACATIONS AND SICK LEAVE.
3. MISCELLANEOUS PERSONNEL REGULATIONS.
4. EMPLOYEE DRUG POLICY.
5. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.

#### CHAPTER 1

### SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES

#### SECTION

- 4-101. Policy and purpose as to coverage.
- 4-102. Necessary agreements to be executed.
- 4-103. Withholdings from salaries or wages.
- 4-104. Appropriations for employer's contributions.
- 4-105. Records and reports to be made.

**4-101. Policy and purpose as to coverage.** It is hereby declared to be the policy and purpose of this municipality to provide for all eligible employees and officials of the municipality, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the municipality shall take such action as may be required by applicable state and federal laws or regulations. (1994 Code, § 4-101)

**4-102. Necessary agreements to be executed.** The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1994 Code, § 4-102)

**4-103. Withholdings from salaries or wages.** Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations,

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<sup>1</sup>The personnel manual for the Town of Gordonsville (and any amendments) may be reviewed in the office of the recorder.

and shall be paid over to the state or federal agency designated by said laws or regulations. (1994 Code, § 4-103)

**4-104. Appropriations for employer's contributions.** There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1994 Code, § 4-104)

**4-105. Records and reports to be made.** The municipality shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1994 Code, § 4-105)

## CHAPTER 2

### VACATIONS AND SICK LEAVE

#### SECTION

4-201. Applicability of chapter.

4-202. Vacation leave.

4-203. Holidays.

**4-201. Applicability of chapter.** This chapter shall apply to all full-time municipal officers and employees except as may be specifically exempted. (1994 Code, § 4-201)

**4-202. Vacation leave.** The mayor and board of aldermen shall have the authority to fix vacation or leave of absences for employees. The mayor may, in his discretion, designate a day off or otherwise authorize an employee to be absent from work on any particular day. (1994 Code, § 4-202)

**4-203. Holidays.** The mayor and board of aldermen shall designate legal holidays to be observed by employees. (1994 Code, § 4-203)

## CHAPTER 3

### MISCELLANEOUS PERSONNEL REGULATIONS

#### SECTION

4-301. Business dealings.

4-302. Strikes and unions.

4-303. Nepotism policy.

**4-301. Business dealings.** Except for the receipt of such compensation as may be lawfully provided for the performance of his municipal duties, it shall be unlawful for any municipal officer or employee to be privately interested in, or to profit, directly or indirectly, from business dealings with the municipality. (1994 Code, § 4-301)

**4-302. Strikes and unions.** No municipal officer or employee shall participate in any strike against the municipality, nor shall he join, be a member of, or solicit any other municipal officer or employee to join any labor union which authorizes the use of strikes by government employees. (1994 Code, § 4-306)

**4-303. Nepotism policy.** (1) It is the policy of the Town of Gordonsville that immediate family will not be employed in regular full-time or regular part-time positions where:

(a) One (1) relative would have the authority to supervise, appoint, remove, discipline or evaluate the performance of the other; or

(b) One (1) relative would be responsible for auditing the work of the other; or

(c) Other circumstances exist which would place the relatives in a situation of actual or reasonably foreseeable conflict between the town's interest and their own.

(2) Where business necessity requires the limitation of employment opportunity of spouses, the means chosen to meet the business necessity shall be those which have the least adverse impact on spouses or members of either sex.

The exclusion should be limited to the job, work crew, shop or unit where the reason for exclusion exists, and should not bar the person from the whole work force, unless the reason applies to the whole work force.

(3) When it is necessary to exclude a person because of what his or her spouse does, then the employees will be asked to determine which spouse shall keep the job.

The town shall require one (1) spouse to quit sixty (60) days after marriage if they become in violation of this section and a mutually agreeable solution cannot be reached between the town and the employees.

(4) Immediate family should include spouse, child, step-child, parent, parents-in-law, brother, brothers-in-law, sister, sisters-in-law, grandparent(s), daughters-in-law, sons-in-law, or grandchildren.

This section shall also apply to persons related by blood or marriage residing in an employee's home. (Ord. #08-08-11, Oct. 2008)

## CHAPTER 4

### EMPLOYEE DRUG POLICY

#### SECTION

- 4-401. Definitions.
- 4-402. Regulations.
- 4-403. Restrictions.
- 4-404. Procedures.
- 4-405. Education and training.
- 4-406. Compliance.
- 4-407. Exceptions.

- 4-401. Definitions.** (1) "BAL." Breath Alcohol Level.
- (2) "CDL." Commercial Drivers License.
  - (3) "DHHS." Department of Health and Human Services.
  - (4) "DOT." Department of Transportation.
  - (5) "EAP." Employee Assistance Program.
  - (6) "EBT." Evidential Breath Testing.
  - (7) "Employee." Individual employed on a full-time, part-time, or temporary basis.
  - (8) "ID." Legal identification.
  - (9) "MRO." Medical Review Officer.
  - (10) "NHTSA." National Highway Traffic Safety Administration.
  - (11) "OTC." Over the counter.
  - (12) "SAP." Substance Abuse Professional.
  - (13) "TDOT." Tennessee Department of Transportation.
  - (14) "Volunteer." Any individual representing the Town of Gordonsville in an official capacity regardless of compensation. (Ord. #04-03-08, May 2004)

**4-402. Regulations.** (1) Compliance with this substance abuse policy is a condition of employment or being a volunteer representing the Town of Gordonsville.

(2) The use of drugs by employees/volunteers of the Town of Gordonsville and impairment in the workplace due to drugs and/or alcohol are prohibited and will not be tolerated and may result in termination of employment.

- (3) This chapter shall apply to any:
  - (a) Full-time employees;
  - (b) Part-time employees;
  - (c) Temporary employees;
  - (d) Volunteers; and
  - (e) Applicants.

(4) In order to provide a safe, healthy, productive and drug free working environment for its employees to properly conduct public business, the Town of Gordonsville policy complies with the following:

(a) Federal highway administration rules which require drug and alcohol testing for persons required to have a commercial driver's license;

(b) Division of transportation rules which include procedures for urine drug testing and breath alcohol testing; and

(c) Omnibus Transportation Employee Testing Act of 1991 regulations which requires alcohol and drug testing of safety sensitive employees with the additional requirement of using the "split specimen" approach to drug testing, providing an extra safeguard for employees.

(5) In order to educate the employees about the dangers of drug and alcohol abuse, the Town of Gordonsville shall sponsor an informational education program for all employees which will include:

(a) Signs and symptoms of drug and/or alcohol abuse;

(b) Effects of drug and/or alcohol abuse on an individual's health, work and personal life;

(c) Policy regarding drugs and/or alcohol abuse; and

(d) Availability of counseling.

(6) This policy does not preclude the appropriate use of illegally prescribed medication if:

(a) The employee's use of the medication does not adversely affect the mental, physical or emotional ability of the employee to safely and efficiently perform their duties; and

(b) The employee informs the mayor, or designee, of their use of such legally prescribed medication before the employee goes on duty or performs any work.

(7) The mayor, or designee of the mayor, shall be designated as the municipal official responsible for answering questions regarding this policy and its implementation. (Ord. #04-03-08, May 2004)

**4-403. Restrictions.** (1) The failure or refusal by an applicant, volunteer or employee to cooperate fully by signing necessary consent forms or other required documents or the failure and/or refusal to submit to any test or any procedure under this policy in a timely manner will be grounds for refusal to hire or for immediate termination.

(2) The use of drugs by employees of the Town of Gordonsville and impairment in the workplace due to drugs and/or alcohol are:

(a) Prohibited and will not be tolerated; and

(b) May lead to termination of employment.

(3) Engaging in prohibited and/or illegal conduct may lead to termination of employment by:

- (a) Being on duty or performing work in/on town property while under the influence of drugs and/or alcohol; or
- (b) Engaging in the manufacture, sale, distribution, use or unauthorized possession of drugs at any time; or
- (c) Engaging in the use of alcohol while on duty or while in/on town property and the manufacture, sale or distribution of alcohol; or
- (d) Refusing or failing a drug and/or alcohol test administered under this policy; or
- (e) Providing an adulterated, altered or substituted specimen for testing; or
- (f) Use of alcohol within four (4) hours prior to reporting for duty on scheduled days or use while in on-call status; or
- (g) Use of alcohol or drugs within eight (8) hours following an accident/incident if the employee's involvement has not been discounted as a contributing factor in the accident/incident or until the employee has successfully completed drug and/or alcohol testing procedures.

(4) All property of the Town of Gordonsville shall be subject to inspection at any time, without notice, with no expectation of privacy in such property. Property includes, but is not limited to:

- (a) Vehicles;
- (b) Desks, credenzas, etc.;
- (c) Containers, bags, etc.;
- (d) Files, cabinets, etc.;
- (e) Lockers, equipment, etc.;
- (f) Buildings, sheds, etc. (Ord. #04-03-08, May 2004)

**4-404. Procedures.** (1) The failure or refusal by an applicant, volunteer or employee to cooperate fully by signing necessary consent forms or other required documents or the failure and/or refusal to submit to any test or any procedure under this policy in a timely manner will be grounds for refusal to hire or for immediate termination.

(2) The submission by an applicant or employee of a urine sample that is not his/her own or is adulterated shall be grounds for refusal to hire or for immediate termination.

(3) The following rules governing the Drug and Alcohol Testing Program for the Town of Gordonsville are:

- (a) Town employees shall not take or be under the influence of any drugs unless prescribed by the employee's licensed physician and/or OTC medications and shall notify the proper personnel before the employee goes on duty.
- (b) Any employee convicted of violating a criminal drug and/or alcohol statute shall inform the mayor, or his designee, of such conviction, including pleas of guilty or nolo contendere, within five (5) days of the conviction.



(c) Failure to comply by informing the town subjects the employee to disciplinary action up to, and including, termination for the first offense.

(d) Notification will be made to the federal contracting officer pursuant to applicable provisions of the Drug Free Workplace Act and the Omnibus Transportation Employee Testing Act.

(e) The types of tests required are:

- (i) Pre-employment;
- (ii) Transfer;
- (iii) Reasonable suspicion;
- (iv) Post accident/incident;
- (v) Random;
- (vi) Return-to-duty; and
- (vii) Follow-up.

(4) Prior to a drug/alcohol test being administered, employees, volunteers and applicants shall be asked to sign a consent form authorizing the test and permitting release of test results from the laboratory to the MRO, or designee.

The consent form shall set forth the following information:

(a) Acknowledgment by the employee they have been notified of the town's drug and alcohol testing policy;

(b) The procedure for confirming and verifying an initial positive test result;

(c) The consequences of a verified positive test result;

(d) The consequences of refusing to undergo a drug and/or alcohol test; and

(e) Provide authorization for certified or licensed attending medical personnel to take and have analyzed appropriate specimens to determine if drugs and/or alcohol were present in the employee's system.

(5) A current valid photo ID must be carried and presented to appropriate personnel during testing.

Failure to present a photo ID is equivalent to refusing to take the test.

(6) Employees, volunteers and applicants may be required to submit to drug testing under six (6) separate conditions:

(a) Types of tests. (i) Pre-employment. All applicants for employee status for positions who have received a conditional offer of employment or acceptance as a volunteer with the Town of Gordonville must take a drug test before receiving a final offer of employment or acceptance.

(ii) Transfer. Employees transferring to other departments shall undergo drug testing.

(iii) Post-accident/post-incident testing. Following any workplace accident/incident determined by supervisory personnel of the Town of Gordonsville to have resulted in property,

environmental damage or in personal injury, including but not limited to, a fatality or human injury requiring medical treatment, each employee whose performance either contributed to the accident/incident or cannot be discounted as a contributing factor to the accident/incident and who is reasonably suspected of possible drug use as determined during a routine post-accident/post-incident investigation or who receives a citation for a moving violation arising from the accident will be required to take a post-accident/post-incident drug test.

Post-accident/post-incident testing shall be carried out within twenty-four (24) hours following the accident/incident.

Urine collection for post-accident/post-incident testing shall be monitored or observed by same gender collection personnel at the established collection site(s).

In instances where post-accident/post-incident testing is to be performed, the Town of Gordonsville reserves the right to direct the MRO, or his/her designee, to instruct the designated laboratory to perform testing on submitted urine specimens for possible illegal/illegitimate substances.

Any testing for additional substances listed under the Tennessee Drug Control Act of 1989, as amended, shall be performed at the urinary cutoff level that is normally used for those specific substances by the laboratory selected.

(A) Post-accident/post-incident testing for ambulatory employees or volunteers. Following all workplace accidents/incidents where drug testing is to be performed, unless otherwise specified by the MRO, or designee, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the Town of Gordonsville to the designated urine specimen collection site within twenty-four (24) hours following the accident.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident/post-incident testing.

Any delay in providing specimens for drug testing shall be considered a refusal to cooperate with the substance abuse program of the Town of Gordonsville and shall result in administrative action up to, and including, termination of employment.

(B) Post-accident/post-incident testing for injured employees. An affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident/incident shall consent to the obtaining of specimens for drug testing by attending

qualified, licensed medical personnel and consent to the testing of the specimens.

Consent shall be given for the attending medical personnel and/or medical facility, including hospitals, to release to the MRO, or designee, of the Town of Gordonsville appropriate and necessary information or records that would indicate whether or not specified prohibited drugs, and what amounts, were found in the employee's system.

Consent shall be granted by each employee at the implementation date of the substance abuse policy of the Town of Gordonsville, or upon hiring following the implementation date.

In the case of post-accident/post-incident unconscious, seriously injured or hospitalized employees unable for urinary testing, certified and/or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if drugs were present in the employee's system only by use of an accepted method for collecting specimens.

Any failure to do post-accident/post-incident testing within twenty-four (24) hours must be fully documented by the attending medical personnel.

(iv) Reasonable suspicion. A drug test is required for each employee or volunteer where there is reasonable suspicion to believe the employee is using or is under the influence of drugs and/or alcohol.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used drugs based upon recent physical, behavioral or performance indicators of possible drug use.

Supervisory personnel of the Town of Gordonsville making a determination to subject any employee to drug testing based on reasonable suspicion shall document their specific reasons and observations in writing to the MRO, or designee, within twenty-four (24) hours of the decision to test and before the results of the urine drug tests are received by the department.

Urine collection for reasonable suspicion testing shall be monitored or observed by same-gender collection personnel.

(v) Random testing. It shall be the policy of the Town of Gordonsville that all employees and volunteers are subject to random urine drug testing.

A minimum of fifteen (15) minutes and a maximum of one (1) hour will be allowed between notification of an employee's

selection for random urine drug testing and the actual presentation for specimen collection.

Random donor selection dates will be unannounced with unpredictable frequency for an indeterminate number of employees and/or volunteers.

Random donor selection means some employees may be tested more often while others may not be tested at all.

(vi) Return-to-duty and follow-up. Any employee of the Town of Gordonsville, who has violated the prohibited drug conduct standards and is allowed to return to work, must submit to a return-to-duty test.

Follow-up tests will be unannounced and at least six (6) tests will be conducted in the first twelve (12) months after an employee returns to work, extending for up to sixty (60) months following return-to-duty.

The employee will be required to pay for his/her return-to-duty test and all follow-up tests accordingly.

Testing will also be performed on any employee possessing a CDL returning from leave or special assignment in excess of six (6) months.

(b) Prohibited drugs. All drug results will be reported to the MRO, or designee. The following is a list of drugs for which tests will be routinely conducted:

- (i) Amphetamines;
- (ii) Marijuana;
- (iii) Cocaine;
- (iv) Opiates;
- (v) Phencyclidine (PCP);
- (vi) Alcohol; and
- (vii) Depressants.

(7) Drug testing collection procedures. (a) Testing will be accomplished as non-intrusively as possible.

(b) Affected employee will be taken by a supervisor, or designated personnel of the Town of Gordonsville, to a drug test collection facility selected by the Town of Gordonsville where a urine sample will be taken from the employee and/or volunteer.

(c) The urine sample will be immediately sealed by personnel overseeing the specimen collection after first being examined by these personnel for signs of alteration, adulteration, or substitution.

(d) The sample will be placed in a secure mailing container.

(e) The employee will be asked to complete a chain-of-custody form to accompany the sample to a laboratory selected by the Town of Gordonsville to perform the analysis on collected urine samples.

(8) Drug testing laboratory standards and procedures. (a) All collected urine samples will be sent to a laboratory that is certified and monitored by the Federal Department of Health and Human Services (DHHS).

(b) In the event of an accident/incident occurring after regular work hours, the supervisor, or designated personnel, shall take the employee(s) to the testing site within twenty-four (24) hours where proper collection procedures will be administered.

(c) The Omnibus Act for holders of a CDL requires that drug testing procedures include split specimen procedures that state:

(i) Each urine specimen is subdivided into two (2) bottles labeled as a "primary" and a "split" specimen;

(ii) Both bottles are sent to a laboratory;

(iii) Only the primary specimen is opened and used for the urinalysis;

(iv) The split specimen bottle remains sealed and is stored at the laboratory;

(v) If the analysis of the primary specimen confirms the presence of drugs, the employee has seventy-two (72) hours to request sending the split specimen to another federal DHHS certified laboratory for analysis;

(vi) The employee will be required to pay for his/her split specimen test(s).

(d) For the employee's protection, the results of the analysis will be confidential except for the testing laboratory until the MRO, or designee, has evaluated a positive test result; and

(e) The mayor and employee will be notified.

(9) Reporting and reviewing. (a) The Town of Gordonsville shall designate a Medical Review Officer (MRO) to receive report and file testing information transmitted by the laboratory.

(b) The Town of Gordonsville shall designate a licensed physician with knowledge of substance abuse disorders.

(i) The laboratory shall report test results only to the designated physician who will review them in accordance with accepted guidelines and the procedures adopted by the Town of Gordonsville.

(ii) Reports from the laboratory to the designated physician shall be in writing or by fax.

(c) The designated physician may talk with the employee by telephone upon exchange of acceptable identification.

(d) The testing laboratory, collection site personnel, and designated physician shall maintain security over all the testing data and limit access to such information to the following:

(i) Applicable department head;

(ii) Employee; and

(iii) Mayor, or designee.

(e) Neither the Town of Gordonsville, the laboratory, nor the designated physician shall disclose any drug test results to any other person except under written authorization for the affected employee, unless such results are necessary in the process of:

(i) Resolution of accident/incident investigations requested by court order; or

(ii) Required to be released to parties (i.e., TDOT, DOT, Tennessee Department of Labor, etc.) having legitimate right-to-know as determined by the town attorney.

(10) Alcohol testing. (a) All breath alcohol testing conducted for the Town of Gordonsville shall be performed using Evidential Breath Testing (EBT) equipment and personnel approved by the National Highway Traffic Safety Administration (NHTSA).

(b) Alcohol testing is to be performed by a qualified technician as follows:

(i) Step one. An initial breath alcohol test will be performed using a breath alcohol analysis device approved by the National Highway Traffic Safety Administration (NHTSA).

(A) If the measured result is less than 0.02 percent Breath Alcohol Level (BAL), the test shall be considered negative.

(B) If the result is greater or equal to 0.04 percent BAL, the result shall be recorded and witnessed and the test shall proceed to step two.

(ii) Step two. (A) Fifteen (15) minutes shall be allowed to pass following the completion of step one above.

(B) Before the confirmation test, or step two, is administered for each employee, the breath alcohol technician shall ensure that the evidential breath testing device registers 0.00 on an air blank.

(1) If the reading is greater than 0.00, the breath alcohol technician shall conduct one more air blank.

(2) If the second reading is greater than 0.00, testing shall not proceed using that instrument, but proceed on another instrument reading 0.00 on an air blank.

(3) Step one shall be repeated using a new mouthpiece and either the same or equivalent, but another, BAD.

(4) The BAL detected in step two shall be recorded and witnessed.

(C) If the lower or the breath alcohol measurements in step one and step two is 0.04 percent or greater, the employee shall be considered to have failed the breath alcohol test.

(D) Failure of the BAT shall result in administrative action by proper official of the Town of Gordonsville, up to and including termination.

(E) Any breath level found upon analysis to be between 0.02 percent BAL and 0.04 percent BAL shall result in the employee's removal from duty without pay for a minimum of twenty-four (24) hours.

(1) In this situation, the employee must be retested by breath analysis and found to have a BAL no more than 0.02 percent before returning to duty with the Town of Gordonsville.

(F) All breath alcohol test results shall be recorded by the technician and shall be witnessed by the tested employee and by a supervisory employee of the Town of Gordonsville.

(G) The completed breath alcohol test form shall be submitted to the mayor, or designee.

(c) Post-accident/post-incident testing. (i) Following any workplace accident/incident determined by supervisory personnel of the Town of Gordonsville to have resulted in property or environmental damage or in personal injury, including but not limited to, a fatality or human injury requiring medical treatment, each employee whose performance either contributed to the accident/incident or cannot be discounted as a contributing factor to the accident/incident and who is reasonably suspected of possible alcohol use as determined during a routine post-accident/post-incident investigation or who receives a citation for a moving violation arising from the accident will be required to take a post-accident/post-incident alcohol test.

(ii) Post-accident/post-incident testing shall be carried out within twenty-four (24) hours following the accident/incident.

(iii) Urine collection for post-accident/post-incident testing shall be monitored or observed by the same gender collection personnel at the established collection site(s).

(iv) In instances where post-accident/post-incident testing is to be performed, the Town of Gordonsville reserves the right to direct the designated physician, or his/her designee, to instruct the designated laboratory to perform testing on submitted urine specimens for possible illegal/illegitimate substances.

(v) Any testing for additional substances listed under the Tennessee Drug Control Act of 1989, as amended, shall be performed at the urinary cutoff level that is normally used for those specific substances by the laboratory selected.

(A) Post-accident/post incident testing for ambulatory employees. Following all workplace accidents/incidents where alcohol testing is to be performed, unless otherwise specified by the designated physician, or designee, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the Town of Gordonsville to the designated urine specimen collection site within twenty-four (24) hours following the accident.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident/post-incident testing.

Any delay in providing specimens for alcohol testing shall be considered a refusal to cooperate with the alcohol abuse program of the Town of Gordonsville and shall result in administrative action up to, and including, termination of employment.

(B) Post-accident/post-incident testing for injured employees. An affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident/incident shall consent to the obtaining of specimens for alcohol testing by qualified, licensed attending medical personnel and consent to the testing of the specimens.

Consent shall be given for the attending medical personnel and/or medical facility, including hospitals, to release to the designated physician, or designee, of the Town of Gordonsville appropriate and necessary information or records that would indicate only whether or not specified alcohol, and what amounts, were found in the employee's system.

Consent shall be granted by each employee at the implementation date of the drug/alcohol policy of the Town of Gordonsville, or upon hiring following the implementation date.

In the case of post-accident/post-incident unconscious, seriously injured or hospitalized employees unable for urinary testing, certified and/or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if alcohol was present in the



employee's system only by use of an accepted method for collecting specimens.

Any failure to do post-accident/post-incident testing within twenty-four (24) hours must be fully documented by the attending medical personnel.

(d) Reasonable suspicion. (i) An alcohol test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of drugs and/or alcohol.

(ii) The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used alcohol based upon recent physical, behavioral or performance indicators of possible drug use.

(iii) Supervisory personnel of the Town of Gordonsville making a determination to subject any employee to alcohol testing based on reasonable suspicion shall document their specific reasons and observations in writing to the mayor, or designee, within twenty-four (24) hours of the decision to test and before the results of the urine alcohol tests are received by the department.

(iv) Urine collection for reasonable suspicion testing shall be monitored or observed by same-gender collection personnel.

(e) Random testing. (i) It shall be the policy of the Town of Gordonsville that all employees are subject to random urine alcohol testing. A minimum of fifteen (15) minutes and a maximum of two (2) hours will be allowed between notification of an employee's selection for random urine alcohol testing and the actual presentation for specimen collection.

(ii) Random donor selection dates will be unannounced with unpredictable frequency for an indeterminate number of employees.

(iii) Random donor selection means some employees may be tested more often while others may not be tested at all.

(f) Return-to-duty and follow-up. (i) Any employee of the Town of Gordonsville, who has violated the prohibited alcohol conduct standards and is allowed to return to work, must submit to a return-to-duty test.

(ii) Follow-up tests will be unannounced and at least six (6) tests will be conducted in the first twelve (12) months after an employee returns to work, extending for up to sixty (60) months following return-to-duty.

(iii) The employee will be required to pay for his/her return-to-duty test and all follow-up tests accordingly.

(iv) Testing will also be performed on any employee possessing a CDL returning from leave or special assignment in excess of six (6) months.

(11) Alcohol testing collection procedures. (a) Testing will be accomplished as non-intrusively as possible.

(b) Affected employees will be taken by a supervisor, or designated personnel of the Town of Gordonsville, to an alcohol test collection facility selected by the Town of Gordonsville where a urine sample will be taken from the employee.

(i) The urine sample will be immediately sealed by personnel overseeing the specimen collection after first being examined by these personnel for signs of alteration, adulteration, or substitution.

(ii) The sample will be placed in a secure mailing container.

(iii) The employee will be asked to complete a chain-of-custody form to accompany the sample to a laboratory selected by the Town of Gordonsville to perform the analysis on collected urine samples.

(12) Alcohol testing laboratory standards and procedures. (a) All collected urine samples will be sent to a laboratory that is certified and monitored by the Federal Department of Health and Human Services (DHHS).

(b) In the event of an accident/incident occurring after regular work hours, the supervisor, or designated personnel, shall take the employee(s) to the testing site within twenty-four (24) hours where proper collection procedures will be administered.

(c) The Omnibus Act for holders of a CDL requires that alcohol testing procedures include split specimen procedures that state:

(i) Each urine specimen is subdivided into two (2) bottles labeled as a "primary" and a "split" specimen;

(ii) Both bottles are sent to a laboratory;

(iii) Only the primary specimen is opened and used for the urinalysis;

(iv) The split specimen bottle remains sealed and is stored at the laboratory;

(v) If the analysis of the primary specimen confirms the presence of alcohol, the employee has seventy-two (72) hours to request sending the split specimen to another federal DHHS certified laboratory for analysis;

(vi) The employee will be required to pay for his/her split specimen test(s);

(vii) For the employee's protection, the result of the analysis will be confidential except for the testing laboratory until the designated physician, or designee, has evaluated a positive test result; and

(viii) The mayor and employee will be notified.

(13) **Reporting and reviewing.** (a) The Town of Gordonsville shall designate a medical review officer (MRO) to receive report(s), and file, testing information transmitted by the laboratory.

(b) The Town of Gordonsville shall designate a licensed physician with knowledge of substance abuse disorders.

(i) The laboratory shall report test results only to the designated physician who will review them in accordance with accepted guidelines and the procedures adopted by the Town of Gordonsville.

(ii) Reports from the laboratory to the designated physician shall be in writing or by fax.

(iii) The designated physician may talk with the employee by telephone upon exchange of acceptable identification.

(c) The testing laboratory, collection site personnel, and designated physician shall maintain security over all the testing data and limit access to such information to the following:

(i) Applicable department head;

(ii) Employee; and

(iii) Mayor, or designee.

(d) Neither the Town of Gordonsville, the laboratory, nor the designated physician shall disclose any alcohol test results to any other person except under written authorization for the affected employee, unless such results are necessary in the process of:

(i) Resolution of accident/incident investigations requested by court order; or

(ii) Required to be released to parties (i.e., TDOT, DOT, Tennessee Department of Labor, etc.) having legitimate right-to-know as determined by the town attorney. (Ord. #04-03-08, May 2004)

**4-405. Education and training.** (1) **Reasonable suspicion testing.**

(a) Training supervisory personnel who will determine whether an employee must be tested based on reasonable suspicion will include:

(i) Two (2) sixty (60) minute periods of training on the specific, contemporaneous, physical, behavioral and performance indicators of both probable drug use and alcohol use; and

(ii) One (1) sixty (60) minute period will be for drugs and one (1) sixty (60) minute period will be for alcohol.

(b) The Town of Gordonsville will sponsor a drug-free awareness program for all employees.

(2) **Distribution of information.** (a) The minimal distribution of information for all employees will include the display and distribution of:

(i) Informational material on the effects of drug and alcohol abuse;

- (ii) Employee assistance program for employee assistance provided by insurance carrier.
- (iii) Ordinance regarding the use of prohibited drugs and/or alcohol; and
- (iv) The penalties that shall be imposed upon employees for any drug abuse violations and alcohol abuse in the workplace. (Ord. #04-03-08, May 2004)

**4-406. Compliance.** (1) Compliance with this substance abuse policy is a condition of employment.

(2) The use of drugs by employees of the Town of Gordonsville and impairment in the workplace due to drugs and/or alcohol are prohibited and will not be tolerated and may result in termination of employment.

(3) Job applicants will be denied employment with the Town of Gordonsville if their initial positive pre-employment drug and alcohol test results have been confirmed/verified.

(4) If a current employee's positive drug and alcohol test result has been confirmed, the employee is subject to immediate removal from any safety-sensitive function and may be subject to disciplinary action up to and including termination.

(5) The town may consider the following factors in determining the appropriate disciplinary response:

- (a) The employee's work history;
- (b) Length of employment;
- (c) Current work assignment;
- (d) Current job performance; and
- (e) Existence of past disciplinary actions.

(6) The Town of Gordonsville reserves the right to allow employees to participate in an education and/or treatment program provided and approved by the town's employee assistance program as an alternative to, or in addition to, disciplinary action.

If such a program is offered and accepted by the employee, then the employee must satisfactorily participate in and complete the program as a condition of continued employment.

(7) Disciplinary action may not be taken pursuant to this drug and alcohol ordinance against employees who voluntarily identify themselves as drug users or alcohol abusers, obtain counseling and rehabilitation through the employee assistance program, and thereafter refrain from violating the town's ordinance on drug and alcohol abuse.

- (a) Voluntary identification will not prohibit disciplinary action for the violation of town personnel policies and regulations; or
- (b) Relieves the employee of any requirements for return-to-duty testing.

(8) Refusing to submit to an alcohol or controlled substance(s) test means that an employee:

(a) Fails to provide adequate breath for testing without a valid medical explanation after he/she has received notice of the requirement for breath testing in accordance with the provisions of this subsection; and/or

(b) Fails to provide adequate urine for controlled substance(s) testing without a valid medical explanation after he/she has received notice of the requirement for urine testing in accordance with the provisions of this subsection; and/or

(c) Engages in conduct that clearly obstructs the testing process.

In any case, the physician or breath alcohol technician shall provide a written statement to the mayor, or designee, of the Town of Gordonsville indicating a refusal to test.

(9) In the event that an employee of the Town of Gordonsville is dependent upon, or an abuser of, drugs and/or alcohol and sincerely wishes to seek professional medical care, that employee should voluntarily discuss his/her problem with the respective department head in private who will make his recommendations to the mayor.

(10) Such voluntary desire for help with a substance abuse problem may be honored by the Town of Gordonsville if treatment is obtained.

(a) The employee shall be removed from active duty pending completion of the treatment.

(b) A maximum of thirty (30) consecutive calendar days for initial substance abuse treatment will be allowed.

(i) The employee must use all vacation, sick and/or compensatory time available.

(ii) In the event accumulated vacation, sick and/or compensatory time is insufficient to provide the medically prescribed and needed treatment up to a maximum of thirty (30) consecutive calendar days, the employee may be provided unpaid leave for the amount of days needed to complete thirty (30) consecutive calendar days.

(11) Voluntary disclosure must occur before an employee is notified of, or otherwise becomes subject to, a pending drug and/or alcohol test.

(12) Prior to any return-to-duty consideration of an employee following voluntary substance abuse treatment, the employee shall:

(a) Obtain a return-to-duty recommendation from the Substance Abuse Professional (SAP) designated by the Town of Gordonsville.

(i) The SAP may suggest conditions of reinstatement of the employee that may include after-care.

(ii) Return-to-duty testing is required with random drug/alcohol follow-up testing.

(b) The respective department head and Mayor of the Town of Gordonsville will consider each case individually and set forth final conditions of reinstatement to active duty.

(13) These conditions of reinstatement must be met by the employee.

Failure of the employee to complete treatment and/or follow after-care conditions, or subsequent failure of any drug and/or alcohol test under this policy will result in administrative action up to, and including, termination of employment.

(14) Voluntary disclosure provisions do not apply to applicants. (Ord. #04-03-08, May 2004)

**4-407. Exceptions.** (1) This chapter does not apply to possession, use or provision of alcohol and/or drugs by employees in the context of authorized work assignments (i.e., undercover police enforcement, intoxilyzer demonstration, etc.).

(2) It is the individual employee's responsibility to ensure that job performance is not adversely affected by the possession, use or provision of alcohol in all such cases. (Ord. #04-03-08, May 2004)

## CHAPTER 5

### OCCUPATIONAL SAFETY AND HEALTH PROGRAM<sup>1</sup>

#### SECTION

- 4-501. Title.
- 4-502. Purpose.
- 4-503. Coverage.
- 4-504. Standards authorized.
- 4-505. Variances from standards authorized.
- 4-506. Administration.
- 4-507. Funding the program.

**4-501. Title.** This chapter shall provide authority for establishing and administering the occupational safety and health program for the employees of the Town of Gordonsville. (Ord. #11-08-24, \_\_\_\_ 2011)

**4-502. Purpose.** The Town of Gordonsville, in electing to update their established program plan, will maintain an effective occupational safety and health program for its employees and shall:

(1) Provide a safe and healthful place and condition of employment that includes:

- (a) Top management commitment and employee involvement;
- (b) Continually analyze the worksite to identify all hazards and potential hazards;

(c) Develop and maintain methods for preventing or controlling existing or potential hazards; and train managers, supervisors, and employees to understand and deal with worksite hazards.

(2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.

(3) Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development of the State of Tennessee, his designated representatives, or persons within the Tennessee Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

(4) Consult with the state commissioner of labor and workforce development with regard to the adequacy of the form and content of records.

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<sup>1</sup>The plan of operation for the Occupational Safety and Health Program for the Town of Gordonsville is included as Appendix A.

(5) Consult with the state commissioner of labor and workforce development, as appropriate, regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the state.

(6) Provide reasonable opportunity for the participation of employees in the effectuation of the objectives of this program, including the opportunity to make anonymous complaints concerning conditions or practices injurious to employee safety and health.

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program. (Ord. #11-08-24, \_\_\_\_ 2011)

**4-503. Coverage.** The provisions of the occupational safety and health program for the employees of the Town of Gordonsville shall apply to all employees of each administrative department, commission, board, division, or other agency of the Town of Gordonsville, whether part-time or full-time, seasonal or permanent. (Ord. #11-08-24, \_\_\_\_ 2011)

**4-504. Standards authorized.** The occupational safety and health standards adopted by the Town of Gordonsville are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972.<sup>1</sup> (Ord. #11-08-24, \_\_\_\_ 2011)

**4-505. Variances from standards authorized.** The Town of Gordonsville may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with "Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, chapter 0800-1-2, as authorized by Tennessee Code Annotated, title 5." Prior to requesting such temporary variance, the mayor and board of aldermen shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the Town of Gordonsville shall be deemed sufficient notice to employees. (Ord. #11-08-24, \_\_\_\_ 2011)

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 50, chapter 3.



**4-506. Administration.** For the purposes of this chapter, the mayor is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop, and administer the occupational safety and health program for the employees of the Town of Gordonsville. The director shall develop a plan of operation for the program and said plan shall become a part of this chapter when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and part IV of the Tennessee Occupational Safety and Health Plan. (Ord. #11-08-24, \_\_\_\_ 2011)

**4-507. Funding the program.** Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the mayor and board of aldermen. (Ord. #11-08-24, \_\_\_\_ 2011)