

TOWNSHIP OF TORCH LAKE POLICY MANUAL

10.0 SUBSTANCE USE AND ALCOHOL/DRUG POLICY AND TESTING

PURPOSE: In continuing effort to provide for the health and safety of its employees and to ensure the health and safety of others, the Township of Torch Lake (“Township”) has adopted the following Substance Use and Alcohol/Drug Testing Policy. The goal of this policy is to balance our respect for an individual’s privacy and rights with our mutual need to maintain a safe, productive, drug-free and alcohol-free working environment. It is further the goal of the Township to comply with the Drug-free Workplace Act of 1988 and maintain a drug-free workplace. The Township’s workplaces located: Township Offices - 2355 N US 31 Kewadin, MI 49648 and Torch Lake Township Fire Station # 2 – 1270 US 31 South, Kewadin, MI 49648.

SECTION 1: DEFINITIONS

- A. For purposes of this policy, “alcohol” means any alcohol or intoxicating liquid containing alcohol or other fermented or distilled liquors.
- B. “Illegal drug” means drugs and federal and state-controlled substances, the possession or use of which is unlawful, pursuant to any federal, state, or local law or regulations in the United States. Examples include street drugs such as cocaine, heroin, marijuana, (or marihuana) and phencyclidine and controlled substances such as marihuana, amphetamine, methamphetamine, and barbiturates. Drugs and controlled substances that are not legally obtainable, or that are legally obtainable but have not been legally obtained, are also considered to be “illegal drugs.” Marijuana (or Marihuana) is unlawful under federal law, is considered an illegal drug under this Policy and is strictly prohibited regardless of whether an employee has a medical marijuana registration card.
- C. Drug-free workplace means a site for the performance of work done at which employees of the Township are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of illegal drugs and controlled substances.

SECTION 2: DRUG-FREE WORKPLACE STATEMENT/POLICY AND PROHIBITED CONDUCT

- A. The unlawful manufacture, distribution, dispensing, possession, or use of illegal drugs and controlled substances are prohibited in the Township's workplace and on Township property.
- B. Any employee or volunteer who possesses, sells, attempts to sell, or in any way distributes illegal drugs on Township property or during work hours will be discharged. Law enforcement officials will be informed of such conduct.

- C. Employees and volunteers, as a condition of service or employment, shall abide by this section and policy.
- D. Any employee or volunteer who is convicted of a criminal drug statute occurring in the workplace must notify the Township Supervisor's Office of such conviction no more than five (5) calendar days after the conviction.
- E. THE TOWNSHIP PROHIBITS THE FOLLOWING CONDUCT:
- Possessing, attempting to possess, using, selling, distributing, preparing to distribute, or offering to sell illegal drugs, alcohol or marihuana, including marihuana-infused products while in the workplace, on Township property, and during work time.
 - Using a prescribed drug for purposes other than those for which the drug was prescribed or not in the prescribed manner while on Township time or property. Employees who have prescription and/or over-the-counter drugs/medications in their bodily system that may affect their ability to safely perform their job, must report that information to their supervisor (or his/her designee) prior to the start of the employee's shift.
 - Reporting to work, or otherwise being on Township work time or property while having illegal or non-prescribed or illegal drugs, alcohol or marihuana (THCA) in the employee's bodily system.

SECTION 3: ALCOHOL/DRUG TESTING

- A. Any employee will be subject to alcohol/drug testing under the following instances:
- Random drug testing.
 - Drug testing unrelated to the reporting of a work-related injury or illness.
 - Drug testing under a state workers' compensation law.
 - Drug testing under other federal law, such as a U.S. Department of Transportation rule.
 - Drug testing to evaluate the root cause of a workplace incident that harmed or could have harmed employees. The Township may test all employees whose conduct could have contributed to the incident, not just the employee who reported the injury or damage.
 - Reasonable Suspicion of being under the influence of drugs or alcohol.
 - Alcohol/drug testing pursuant to this policy.
- B. The Township will require any employee who is reasonably suspected of having illegal (or non-prescribed) drugs or alcohol in his/her system while on Township work time or property to submit to alcohol/drug testing. The standard for determining reasonable suspicion will be guided by the following:

- The test must be requested by the Township Supervisor, Deputy Township Supervisor, Fire Chief, EMS Director, or a supervisor.
 - Reasonable suspicion shall be based upon specific objective facts, reasonable inferences, and observations of appearance drawn from those facts in light of experience and/or training. Examples include, but not limited to:
 - Odors: smell of alcohol or marijuana.
 - Appearance:
 - Eyes dilated, constricted or watery, or involuntary eye movements.
 - Face flushed, sweating, or confused.
 - Speech is slurred, slow, distracted or incoherent.
 - Unable to walk or balance without assistance.
 - Disheveled clothing.
 - Emotions unstable, argumentative drowsy
 - Decline in the employee’s performance or productivity.
 - Where the reasonable suspicion is based upon personal observation by a supervisor, the objective facts must be articulated.
- C. The facts forming the basis for the reasonable suspicion shall be disclosed to the employee at the time that demand for testing is made, and the employee shall, at that time, be given the opportunity to explain his/her behavior or actions. The employee shall have the right to Union representation if a Union member. Any refusal to take the test may result in immediate discharge in the discretion of the Township Supervisor.
- D. The Township will treat all test results as confidential records, to be shared only with those individuals who have a legitimate “need to know.”
- E. Upon completion of the testing, the employee will receive telephone notification of the results of the testing by the laboratory or as soon as practical after the Township receives such notification.
- F. Any refusal to submit to such testing will subject the employee to immediate discharge.

SECTION 4: LABORATORY TEST

Arrangements will be made to transport the person taking the test to the hospital or independent laboratory to perform the test. Under no circumstances will the employee be allowed to drive himself or herself to the testing facility. A member of management must transport the employee or arrange for the employee to be transported home. A

proper chain of custody in compliance with the United States Department of Transportation (DOT) Regulations will be maintained on all tests.

In the case of urine testing for illegal use, the laboratory used must be certified by the National Institute on Drug Abuse (NIDA). The initial screen test will be of the immunological assay type and will be conducted using the "EMIT" test. No disciplinary action shall be taken based upon the initial screen test. If the initial test is positive, an immediate follow-up test on the identical sample will be conducted using the gas chromatography/mass spectrometry method.

The laboratory utilizes the cutoff concentrations displayed in the following table for initial and confirmatory drug tests. All cutoff concentrations are expressed in nanograms per milliliter (ng/mL). The table follows:

Initial test analyte	Initial test cutoff¹	Confirmatory test analyte	Confirmatory test cutoff concentration
Marijuana metabolites (THCA) ²	50 ng/mL ³	THCA	15 ng/mL.
Cocaine metabolite (Benzoylecgonine)	150 ng/mL ³	Benzoylecgonine	100 ng/mL.
Codeine/ Morphine	2000 ng/mL	Codeine Morphine	2000 ng/mL. 2000 ng/mL.
Hydrocodone/ Hydromorphone	300 ng/mL	Hydrocodone Hydromorphone	100 ng/mL. 100 ng/mL.
Oxycodone/ Oxymorphone	100 ng/mL	Oxycodone Oxymorphone	100 ng/mL. 100 ng/mL.
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL.
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL.
Amphetamine/ Methamphetamine	500 ng/mL	Amphetamine Methamphetamine	250 ng/mL. 250 ng/mL.
MDMA ⁴ /MDA ⁵	500 ng/mL	MDMA MDA	250 ng/mL. 250 ng/mL.

Table from US DOT. <https://www.transportation.gov/odapc/part40/40-87>

If an EMIT test detects the presence of a drug equal to or above the confirmation level of the test result, the test will be considered as failed.

Upon completion of all testing, the employee will receive telephone notification of the results of the testing by the laboratory or as soon as practical after the Township receives such notification. If the results of confirmation testing are positive, the results will be reported to the Township.

If an employee is requested to undergo a blood/alcohol or breathalyzer test, and the test reveals a minimum level of .02% blood alcohol content (B.A.C.), the employee will have failed the test.

It is the intent of this program to test for those agents that are most frequently contained in the drugs of abuse. Therefore, the preceding list of drugs included in the table is subject to continual review and modification.

SECTION 5: RELEASE FROM DUTY

Any time an employee has been ordered to be tested, based upon reasonable suspicion, the employee shall not drive any vehicle or perform any job duties or functions, unless so authorized by a supervisor. The employee will be compensated according to his/her Collective Bargaining Agreement or salary/wage schedule for all time spent in the testing process. When possible, such testing will be conducted during the employee's scheduled work hours.

SECTION 6: REHABILITATION, LAST CHANCE, AND PENALTIES

- A. An employee who fails a drug/alcohol test required by this Policy shall, as a condition of continued employment, acknowledge that the employee will be given one "last chance" to retain his/her employment, which may require the employee to become involved in and successfully complete a rehabilitation program approved by the Township. The determination of whether the "last chance" requires the employee to become involved in and successful complete a rehabilitation program is within the sole discretion of the Township. Probationary employees who during their initial new hire term of probation who violate this Policy will be immediately discharged.
- B. If the "last chance" requires the employee to enter into a rehabilitation program, the employee must, if able, continue to work while in the rehabilitation program if, in the Township's opinion, he/she is capable of satisfactory performance and if the employee agrees to be tested for drugs/alcohol according to the rehabilitation program rules and the Township's requirements. Approval from the Township is required.
- C. If the "last chance" requires the employee to enter into a rehabilitation program, and the employee must discontinue work while in the program, the employee may be eligible to take an unpaid medical leave of absence. The employee must supply all medical documentation required by the Township in order to support the need for the leave.
- D. If the "last chance" requires the employee to enter into a rehabilitation program, the employee must remain in the program for an adequate period of time as determined by the program professionals. The employee must provide to the Township, at time intervals determined by the Township or designee, reports of satisfactory participation in the program. In addition, a report of satisfactory completion of the program at the termination of active treatment is required. These reports should come from the director of the program or other appropriate persons affiliated with the program. The failure to complete the program against the recommendation of the program director or other

appropriate persons affiliated with the program will result in immediate discharge.

- E. Upon satisfactory completion of the rehabilitation by the employee, it will be a condition of re-employment that the employee agrees to be periodically re-tested for drugs/alcohol at the Township's discretion for a reasonable period not to exceed eighteen (18) months.
- F. If successful completion of a rehabilitation program is not required by the Township as part of the employee's "last chance", the Township may still require, as a condition of continued employment, the employee to be periodically re-tested for drugs/alcohol at the Township's discretion for a reasonable period not to exceed eighteen (18) months.
- G. If an employee violates this Policy and refuses to agree to the terms of the "last chance" offered by the Township, the employee will be immediately discharged.
- H. If any employee violates this Policy for a second time (after successful completion of the terms of any "last chance"), the employee will be immediately discharged.
- I. An employee who attempts to or actually tampers with the drug/alcohol testing process, including by providing a substituted or altered sample, will be immediately discharged and will be ineligible for a "last chance".
- J. An employee who is found to have possessed, used, distributed, sold or offered for sale illegal drugs while on Township time or property will be immediately discharged and will be ineligible for a "last chance."
- K. The Township encourages employees with substance abuse problems to identify themselves to the Township Supervisor, Township Supervisor, Deputy Township Supervisor, Fire Chief, EMS Director, or a supervisor, before the employee violates this Policy and is subject to disciplinary action. The Township may refer such employees to a rehabilitation program and, where appropriate, will allow a leave of absence for treatment and continued employment.

Adopted _____
Torch Lake Township
Board of Trustees