

RESOLUTION NO. 2010 - 1989

A RESOLUTION OF THE TOWN COMMISSION FOR THE TOWN OF SURFSIDE, FLORIDA, APPROVING REVISED ADMINISTRATIVE POLICY NUMBER 102, DRUG AND ALCOHOL FREE WORKPLACE AND SUBSTANCE ABUSE TESTING PROCEDURES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside's ("Town") revised Drug And Alcohol Free Workplace and Substance Abuse Testing Procedures Administrative Policy No. 102 is implemented pursuant to the Drug Free Workplace Program as codified within the laws of the State of Florida at § 440.102, the Florida Administrative Code, Drug Free Workplace Standards found at Chapter 59A-24 of the State of Florida Administrative Code, the rules of the Department of Labor and Employment Security, Division of Workers' Compensation, as well as the Federal Drug Free Workplace Act of 1988 and 1989; and

WHEREAS, the Town Commission believes that it is in the best interest of the Town to approve the revised Drug and Alcohol Free Workplace and Substance Abuse Testing Procedures Administrative Policy No. 102 attached as Exhibit "A."

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above and foregoing recitals are true and correct and are incorporated herein by reference.

Section 2. Authorization. The Town Commission hereby authorizes the Town Manager and Town Attorney to do all things necessary to effectuate the revised Drug and Alcohol Free Workplace and Substance Abuse Testing Procedures Administrative Policy No. 102 attached as Exhibit "A."


Section 3. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED and **ADOPTED** on this 14 day of December, 2010

Motion by Commissioner Graubart, second by Commissioner Olchyk.


FINAL VOTE ON ADOPTION

Commissioner Michael Karukin	<u>yes</u>
Commissioner Edward Kopelman	<u>yes</u>
Commissioner Marta Olchyk	<u>yes</u>
Vice Mayor Joseph Graubart	<u>yes</u>
Mayor Daniel Dietch	<u>yes</u>



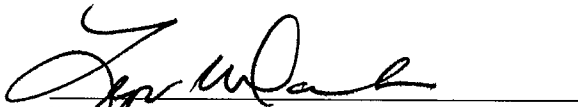
Daniel Dietch, Mayor

ATTEST:

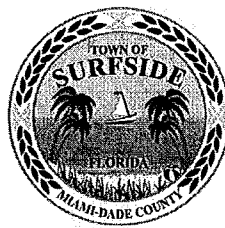


Debra E. Eastman, MMC
Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE TOWN OF SURFSIDE ONLY:**



Lynn M. Dannheisser
Town Attorney



ADMINISTRATIVE POLICY

NUMBER: 102	DATE: October 17, 2007
REVISIONS: 11/12/2010	
ISSUED BY: Town Manager	SIGNED:

SUBJECT: DRUG AND ALCOHOL FREE WORKPLACE

PURPOSE: In a strong commitment to safeguard the health of our employees, to provide a safe working environment for both our employees and invitees, and to set an example for the citizens of the Town of Surfside, Florida, especially its youthful residents, we have established a Drug and Alcohol Free Workplace Policy and Substance Abuse Testing Procedures which comply and comport with both federal and state laws, regulations and judicial rulings.

This policy is implemented pursuant to the Drug Free Workplace Program as codified within the laws of the State of Florida at § 440.102, the Florida Administrative Code, Drug Free Workplace Standards found at Chapter 59A-24 of the State of Florida Administrative Code, the rules of the Department of Labor and Employment Security, Division of Workers' Compensation, as well as the Federal Drug Free Workplace Act of 1988 and 1989.

Under the policy it is a condition of employment for all Town of Surfside employees to refrain from ingesting illegal substances at all time and from reporting to work or working with presence of drugs or alcohol endangers not only the health and safety for its employees, in addition to causing poor moral and employee relations problems, but most importantly, such use and/or abuse directly impairs the employee's ability to safety and efficiently perform his or her assigned tasks and job functions by contribution to tardiness and increasing employee accidents, absenteeism, and substandard job performance.

POLICY:

The essential component parts of this policy are:

- I. The Town of Surfside has a **"zero tolerance"** and therefore prohibits the illegal use, possession, sale, manufacture or distribution of drugs, alcohol or other controlled substances on its property or in its vehicles.

It is also against the Town of Surfside's policy to report to work or to work under the influence of illegal, non-prescribed drugs or alcohol. Employees who violate this policy are subject to disciplinary action up to and including termination. Any employee who is taking any prescription drug which might impair safety, performance, or any motor functions must advise his or her immediate supervisor or the Human Resources Director before reporting to work while on such a medication.

II. **Drug Testing of Applicants:** The Town of Surfside recognized employees have a constitutional right under the Fourth Amendment against unreasonable searches; however, all applicants considered final candidates for a position, to the extent permitted by Florida law, will be tested for the presence of drugs as part of the application process. All applicants for positions requiring a commercial drivers' license will be tested for drugs pursuant to federal law.

1. Applicants will be required to sign a Consent to Pre-Employment Screening form;
2. if the applicant refuses to sign the form or refuses to submit to the screening when asked, he or she will not be considered for employment and the employment application process will be concluded at that time; and
3. if an applicant 's test is confirmed positive, the applicant will not be considered for employment at that time and will be informed that he or she has failed to meet standards.

III. **Reasonable Suspicion Substance Abuse Testing:** The Town will require any employee to submit to a drug or alcohol test when it has a reasonable suspicion that the employee to be tested is thought to be under the influence of or possibly using illegal drugs, narcotics and/or alcohol. The term "reasonable suspicion" for the purposes of this policy, shall be defined as follows:

1. Aberrant or unusual on duty behavior or deportment of an employee;
2. Behavior which is a recognized and accepted symptoms(s) of intoxication or impairment caused by a controlled substance, including alcohol; and

3. The behavior of the employee is not reasonably explained as resulting from causes other than the use of a controlled substance, including alcohol.

Inappropriate employee behavior as described above must be personally observed by a Town managerial or supervisory employee and witnessed by at least one (1) other employee witness, who may or may not be a supervising employee.

When confronted by a supervisor/managerial employee, the employee under suspicion will be offered an opportunity to explain to the supervisor/manager, prior to being ordered to take the drug and/or alcohol test, why the aberrant or unusual behavior is noticeable. Drug and/or alcohol testing based upon reasonable suspicion will be conducted only with either the request of a Department Head or his/her designee and the Human Resources Department with the consent of the Town Manager or his/her designee. Such approval shall be memorialized in writing and indicate the subject matter of the test, why the test was ordered and listing the specific objective fact(s) constituting "reasonable suspicion." A copy of this written order will be provided to the employee as soon as it is practicable to do so.

Any refusal on the part of the suspected employee to immediately comply with a valid "reasonable suspicion" substance abuse testing order will result in the immediate causal termination of the employee.

IV. **Substance Abuse Testing Procedures:** The following procedures shall apply to the substance abuse testing administered to employees who meet the above stated conditions:

1. The Town may request urine and/ blood samples. The employee may, at his/her sole option and expense, upon request receive a blood test in addition to a urine test if none were ordered. The sample will be split to preserve a portion of the sample for future testing.
2. Analysis of specimens will be collected and performed only by laboratories, hospitals or clinics certified by the State of Florida, Agency for Health Care Administration (AHCA) of the Federal Substance Abuse and Mental Health Services Administration (SAMHSA), utilizing qualified sites and employing collectors trained to follow custodial collection protocols and properly maintain legal specimen chain-of-custody.

3. Urine or blood specimens shall be drawn or collected at a laboratory, hospital, doctor's office, certified medical facility or even on Town premises by a certified health care professional. Employees being tested may request a representative of their choice to accompany the employee to the substance abuse test and observe the collection of other specimen. If the Town or the collector requires an observer when the urine specimen is given, the observer shall be of the same sex as the employee being tested. All specimen containers and vials shall be sealed with evidence tape and labeled in the presence of the employee and his/her witness.

4. All substance abuse testing will be conducted using recognized technologies and recognized testing standards. The following standards shall be used to determine what level of detected substance shall constitute a **POSITIVE** test result.

Substance	Screening Test	Confirmation
Amphetamines	1000 ng/mL	1000 ng/mL
Barbiturates	300 ng/mL	300 ng/mL
Benzodiazepines	300 ng/mL	300 ng/mL
Cocaine	300 ng/mL	300 ng/mL
Cannabinoids (Marijuana)	50 ng/mL	50 ng/mL
Methadone	300 ng/mL	300 ng/mL
Methaqualone	300 ng/mL	300 ng/mL
Opiates (Heroin, Morphine, Codeine)	300 ng/mL	300 ng/mL
Phencyclidine (PCP)	25 ng/mL	25 ng/mL
Propoxyphene	300 ng/mL	300 ng/mL
Alcohol (Ethanol)	0.02 g%	0.02 g%

The levels used will be same as those set by the Federal Government CDL Program. As those levels change so will the levels in this policy. Levels found below those set above shall be determined as negative indicators. Tests for other non-presented controlled substances will be in accordance with federal government screening and confirmation standards.

5. A Certified Medical Review Officer (MRO) will review all negative and confirmed positive laboratory results. Positive results will be communicated to the Town's designated human resources professional after the MRO has ascertained that personal prescriptions or other legal substances do not account for the laboratory findings. Investigations may include, as appropriate,

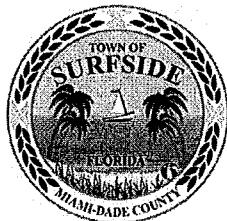
telephone contact with the employee and any prescribing physician. Employees may consult the Town appointed MRO concerning drugs and/or drug groups that may be tested for under this procedure.

6. An employee who tests positive will be sent a "Notice of Positive Drug Test Result" letter containing the laboratory and the MRO's telephone numbers as well as pertinent information concerning the drug test result challenge/appeal process. Within five (5) working days after receiving written notification of a confirmed positive test result which has been verified, an employee may request a further test for the split sample and may submit information to the Town and/or the MRO contesting the test results. If the explanation or challenge of the employee or job applicant is unsatisfactory to the Town, the Town, within fifteen (15) days of receipt, will provide a written explanation as to why the employee or job applicant's explanation is unsatisfactory, and a copy of the report of positive confirmed test results. Such documents shall be kept confidential and maintained by the Town for at least one (1) year.
 7. The results of all urine and blood tests performed hereunder will be held confidential to the extent permitted by law.
 8. Any adulteration of specimens before during or after the substance abuse test, will constitute immediate grounds for employee discharge from employment.
- V. **Post - Accident Testing:** Employees will be required to undergo urine and/or breath testing if the Town has reason to believe the employee's act or failure to act is a direct or proximate cause of a work related accident that has caused a death or any personal injury or property damage in excess of \$500.
1. Employees must adhere to post-accident specimen collection requirements as a condition of employment.
- VI. **Disciplinary Consequences for Positive Substance Abuse Test:** Disciplinary consequences for violating the Town's Drug and Alcohol Free Workplace Policy may include termination of employment and denial of Unemployment Compensation benefits. An employee injured and subsequently confirmed positive for drug or alcohol abuse based upon post-accident testing may not get Workers' Compensation benefits under State law.

- VII. **Voluntarily Acknowledgment of Substance Abuse Problem:** Nothing in the Town's Drug and Alcohol Free Workplace Policy shall prohibit an employee from voluntarily self-identifying as having a substance abuse problem to either his/her immediate supervisor or a representative of the Human Resources Department. Requests from employees for assistance in this regard shall remain confidential to the extent permitted by law. Employees enrolled in substance abuse programs as outpatients, shall be subject to all Town rules, regulations and job performance standards. There will not be discipline for voluntary requests for assistance involving a personal substance abuse problem if such request is made before drug/alcohol abuse leads to disciplinary problems.
- VIII. Drug and alcohol abuse are serious personal concerns for many individuals. The Town of Surfside provides employees in such circumstances with the services of an Employee Assistance Program which may be called to obtain confidential professional referral assistance.

THIS POLICY SUPERSEDES ANY INFORMATION PROVIDED TO APPLICANTS AND/OR EMPLOYEES, EITHER WRITTEN OR ORAL. THE TOWN RESERVES THE RIGHT TO CHANGE THE PROVISIONS OF THIS POLICY AND TESTING PROGRAM AT ANY TIME IN THE FUTURE, CONSISTENT WITH APPLICABLE LAW.

This policy contains updates to the original policy issued in 2007. This policy shall take effect immediately upon its execution and issuance by the Town Manager.



**DOCUMENTATION OF REASONABLE SUSPICION FORM
FOR REASONABLE SUSPICION OF THE PRESENCE OF ALCOHOL AND/OR DRUGS**

This form is to be completed by the supervisor who believes reasonable suspicion exists. It must be completed as soon as practicable upon suspicion and no later than the end of the workday. A copy of this form will be provided to the employee upon request.

Employee Name: _____ Department: _____

Date of Suspicion: _____ Time of Suspicion: _____

Please indicate with an "X" as appropriate. Please use the bottom of this form for additional comments.

	YES	NO
1. Smell of alcohol on breath or person?	___	___
2. Slurred Speech?	___	___
3. Disorientation: Is the employee confused about:		
Where he or she is?	___	___
What day it is?	___	___
What time it is?	___	___
4. Altered motor functions? (i.e. inability to stay awake, poor condition, staggering gait)	___	___
5. Mood		
Belligerent?	___	___
Ecstatic?	___	___
More open or nervous than usual?	___	___
Other: _____	___	___
6. Erratic and/or reckless behavior?	___	___
7. Skin color:		
Pale?	___	___
Flushed?	___	___
8. Excessive perspiration?	___	___
9. Excessive trips to restroom?	___	___
10. Bloodshot eyes?	___	___
11. Dilated pupils?	___	___
12. Traces of alcohol in any containers?	___	___
13. Observation of individual consuming what appears to be an illegal drug or alcohol?	___	___
14. Confession of employee that he or she was drinking alcohol or ingesting drugs?	___	___
15. Confession of other employees?	___	___
16. Traces of drugs?	___	___
17. Traces of drug paraphernalia	___	___
18. Smell of marijuana or other controlled substance?	___	___
19. Congregation of employees in remote areas of facilities Or job sites in area employees usually do not frequent?	___	___

	YES	NO
20. Weariness, fatigue or exhaustion?	___	___
21. Deteriorating physical appearance?	___	___
22. Yawning excessively?	___	___
23. Blank stare or expression?	___	___
24. Sunglasses worn at inappropriate times?	___	___
25. Changes in appearance after lunch or break?	___	___
26. Withdrawing and avoiding peers?	___	___
27. Complaints from co-workers?	___	___
28. Excessive absenteeism or patterns or sick leave abuse Especially on Mondays, Fridays, and days before or after holidays?	___	___
29. Unauthorized or unscheduled absences?	___	___
30. Unusually high incident of colds, flu, upset stomach & headache?	___	___
31. Prolonged lunch hours?	___	___
32. Tardiness?	___	___
33. Unexplained departures from work or disappearances from job areas?	___	___
34. More than average number of job-related mistakes, injuries, or accidents?	___	___
35. Decrease in efficiency or productivity?	___	___
36. Has the employee been given a chance to explain any of the above observations? If yes, what was the employee's response?	___	___

37. Other (attach additional pages if necessary):

List Witnesses: _____

Employee Signature

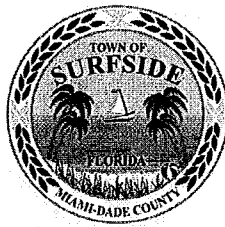
Date

Time

Supervisor's Signature

Date

Time



**FORM A - NOTICE TO EMPLOYEE OF
ALCOHOL AND/OR CONTROLLED SUBSTANCE TEST**

TO: _____

You are hereby notified by the Program Administrator that pursuant to Town's Policy and Procedures Regarding Alcohol and Controlled Substance Testing you are required to submit:

_____ an alcohol breath test

_____ a controlled substance urine test

Your breath specimen will be analyzed for the presence of alcohol. Your urine specimen will be tested at a laboratory approved by the U.S. Department of Health and Human Services for the following drug substances: Amphetamines, Barbiturates, Benzodiazepines, Cannabinoids (marijuana), Cocaine, Opiates (Heroin, Morphine, Codeine), Phencyclidine, Propoxyphene and Alcohol (Ethanol).

You are now required to proceed directly to the collection site for the purpose of providing the above-requested breath and/or urine samples. Upon reaching the site you will be asked to consent to the requested testing. You must follow the instructions given to you and any instructions given to you by the collection site technician. Your cooperation is greatly appreciated.

I, _____, have read and understand the terms contained in this notice. I understand I will may be terminated should my breath alcohol test indicate a presence of alcohol in my body greater than 0.04 or should my urine test indicate the presence of any of the above-listed controlled substances. Further, I understand I may be terminated should I refuse to submit to the required testing.

Employee Signature

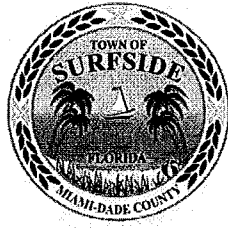
Date

Employee Name (Please Print)

Parent's Signature if Employee is
under age 18

Witness Signature

Witness Name (Please Print)



**FORM B - CONSENT TO ALCOHOL AND/OR CONTROLLED SUBSTANCE TESTING
BASED UPON REASONABLE SUSPICION**

I, _____, have received a copy of Town's Policy and Procedures Regarding Alcohol and Controlled Substance Testing, and I understand that refusing to provide a breath and/or a urine specimen, as requested by the Town, tampering with a specimen, or providing false information on a specimen collection and control form constitute grounds for termination of employment with Town. I understand that failure to pass either the requested alcohol test or the requested drug test may result in disciplinary action up to and including termination from employment.

I hereby consent to provide a breath and/or a urine specimen, as requested by the Town, for the purpose of testing for the presence of alcohol and controlled substances at a laboratory designated by Town. I authorize the release of such test results to the medical review officer designated by Town and to the Program Administrator who is responsible for the Statement of Procedures and Policy Regarding Alcohol and Controlled Substance Testing.

Employee Signature

Date

Employee Name (Please Print)

Parent's Signature if Employee is
under age 18

Witness Signature

Witness Name (Please Print)

I do not consent to provide either a breath or a urine specimen, as requested by the Town, for the purpose of testing for the presence of alcohol and controlled substances. I understand that my refusal to participate in testing may result my termination from employment.

Employee Signature

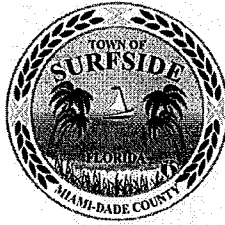
Date

Employee Name (Please Print)

Parent's Signature if Employee is
under age 18

Witness Signature

Witness Name (Please Print)



**FORM C - CONSENT TO POST-ACCIDENT
ALCOHOL AND/OR CONTROLLED SUBSTANCE TESTING**

I, _____, have received a copy of Town's Policy and Procedures Regarding Alcohol and Controlled Substance Testing, and I understand that refusing to provide a breath and/or a urine specimen, as requested by the Town, tampering with a specimen, or providing false information on a specimen collection and control form constitute grounds for termination of employment with Town. I understand that failure to pass either the requested alcohol test or the requested drug test may result in disciplinary action up to and including termination from employment.

I hereby consent to provide a breath and/or a urine specimen as requested by Town for the purpose of testing for the presence of alcohol and/or controlled substances at a laboratory designated by Town. I authorize the release of such test results to the medical review officer designated by Town and to the Program Administrator who is responsible for the Statement of Procedures and Policy Regarding Alcohol and Controlled Substance Testing.

Employee Signature

Date

Employee Name (Please Print)

Parent's Signature if Employee is
under age 18

Witness Signature

Witness Name (Please Print)

I do not consent to provide either a breath or a urine specimen as requested by Town for the purpose of testing for the presence of alcohol and controlled substances. I understand that my refusal to participate in testing may result in my termination from employment.

Employee Signature

Date

Employee Name (Please Print)

Parent's Signature if Employee is
under age 18

Witness Signature

Witness Name (Please Print)

**OVER-THE-COUNTER AND PRESCRIPTION DRUGS THAT COULD ALTER OR AFFECT
THE OUTCOME OF A DRUG TEST**

This sheet is for your information only.

ALCOHOL

All liquid medications containing ethyl alcohol (ethanol). Please read the label for alcohol content. For example, Vick's Nyquil is 25% (50 proof) ethyl alcohol; Comtrex, 20% (40 proof); Listerine, 26.9% (54 proof).

AMPHETAMINES

Obetral, Biphetimine, Desoxyn, Dexedrine, Didrex.

CANNABINOIDS

Marinol (Dronabinol, THC).

COCAINE

Cocaine HCl topical solution (Roxanne).

PHENCYCLIDINE

Not legal by prescription.

OPIATES

Paregoric, Parepectolin, Donnagel PG, Morphine, Tylenol with Codeine, Empirin with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guaiatuss AC, Novahistine DH, Novahistine Expectorant, Dilaudid (Hydromorphone), M-S Contin and Roxinol (morphine sulfate), Percodan, Vicodin, etc.

BARBITURATES

Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorinal, Fiorecet, Esgic, Butisol, Mebarbal, Butabarbital, Phrenilin, Triad, etc.

BENZODIAZEPHINES

Ativan, Azene, Clonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Halcion, Paxipam, Restoril, Centrax.

METHADONE

Dolophine, Methadose.

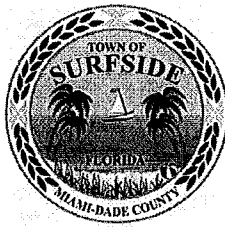
PROPOXYPHENE

Darvocet, Darvon N, Dolene, etc.

Should you have any questions regarding this information you may contact:

Drug Free Workplaces, Inc.

**27 W. Romana Street Pensacola, FL 32502
850-434-3782 or 800-430-3782
help@drugfreeworkplaces.com**



**DRUG AND ALCOHOL FREE WORKPLACE POLICY
AND SUBSTANCE ABUSE TESTING PROCEDURES
ACKNOWLEDGMENT FORM**

By Signing below, the employee acknowledges receiving and understanding the Town of Surfside's Drug and Alcohol Free Workplace Policy. This signature (or a facsimile thereof) also authorized all health care providers to release information requested by the Medical Review Officer to corroborate legal prescription use following a positive drug and/or alcohol laboratory finding.

Employee Signature

Date

Employee Name (Please Print)

Witnessed by Signature

Date

Witness Name (Please Print)