

**TOWN OF VIENNA, VIRGINIA
ADMINISTRATIVE REGULATIONS**

<u>Subject:</u> SUBSTANCE ABUSE POLICY	<u>Regulation No:</u> 2.20	<u>Effective Date:</u> April 21, 2009
	Supersedes: July 6, 2001	

I. STATEMENT OF PURPOSE

The Town of Vienna has a responsibility to the citizens and the community to provide quality service in a timely and cost-effective manner. Employees at any and all levels in the organization who have alcohol or illegal substances in their systems or who have abused controlled substances are impairing their ability to perform their duties at full, efficient capacity. Furthermore, impaired judgment on their part may have serious financial consequences for the Town through increased safety risks, potential accident liabilities, increased workers' compensation liabilities and potential faulty decision making.

The Town of Vienna is concerned about the safety, health and well-being of its employees. The consumption of alcoholic beverages and illegal substances and abuse of controlled substances is a significant problem both for the safety of the employee and the liability of the Town. Therefore, it shall be the policy of the Town of Vienna that eligible candidates being considered for employment who are found to have positive drug and/or alcohol screening test results shall be disqualified for employment at that time.

Additionally, any current Town employees are subject to substance screening if there is reasonable suspicion that, while on duty, they are impaired. Impairment is defined as being unable to perform their duties safely and competently due to use of alcohol or controlled substances. There shall be, however, no random testing done on Town employees.

II. PRE-EMPLOYMENT SUBSTANCE SCREENING

A. The following listing of duties and responsibilities outlines those positions in which the pre-employment physical shall include substance screening. While this summary is descriptive of many of the positions, this list is not intended to contain all positions which may require testing.

1. Town Manager, Town Clerk, Town Attorney, Department and/or Division Heads, Supervisors and Foremen.

a. Duties and Responsibilities

Incumbents in these positions exercise leadership and responsibility in the organization and their decisions and actions have the greatest impact on the accomplishment of required municipal services for the Vienna community.

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b. Factors for Screening

Incumbents are responsible for the safety and well being of all subordinate employees and their judgment and decisions greatly impact upon the health, safety, and welfare of both the general public and Town employees. Furthermore, they are required to drive vehicles in the conduct of Town business.

2. Sworn Police Officers and Police Support Personnel

a. Duties and Responsibilities

Incumbents in all safety positions are responsible for enforcing the law. They are entrusted with performing safety services and protecting the lives and safety of the public. Incumbents in safety support positions respond to emergency assistance calls, dispatch public safety vehicles, have access to controlled police related information such as criminal records, and have access to confiscated evidence such as illegal substances, and to public safety communications.

b. Factors for Screening

Incumbents must avoid conflicts of interest and compromises of security, must inspire credibility as enforcers of laws and as witnesses in court, must keep contraband out of the jail, and need to work without impairment or critical errors.

3. Engineering

a. Duties and Responsibilities

All professional and sub-professional engineering incumbents are responsible for drawing up plans and working on projects relating to physical structures and public utility operations where the health and safety of the public and employees is involved.

b. Factors for Screening

Incumbents need to work without impaired judgment or critical errors where consequences pose increased health and/or safety risks.

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4. Code Inspection and Enforcement Personnel

a. Duties and Responsibilities

Incumbents inspect buildings, facilities, and structures for conformance with codes and standards to ensure that structures are safe.

b. Factors for Screening

Incumbents need to work without impaired judgment and avoid critical errors in inspecting work which affects the health and safety of the public.

5. Recreation Services

a. Duties and Responsibilities

Incumbents in recreation positions are responsible for working with children and exercise influence over minors by virtue of their position of authority with the Town.

b. Factors for Screening

Incumbents need to inspire credibility as service providers or caretakers as in the exercise of authority over children and minors; to work without impairment in coordinating and performing recreational program activities, such as watching children operate playground equipment, and providing positive role models for children to follow.

6. Public Works and Park Maintenance Equipment and Motor Vehicle Operators

a. Duties and Responsibilities

Incumbents work with or around potentially hazardous and/or dangerous materials, tools, equipment, machinery, facilities and/or areas (work at heights, in confined spaces, public streets, rights-of-way, etc.).

b. Factors for Screening

Incumbents need to work without impaired judgment or impaired physical ability so as to avoid injury to themselves, co-workers, and/or the public, and so that faulty

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judgment may not result in material loss of life, equipment or property.

7. Positions with Access to Public Payrolls, Public Records or Involved with the Handling of Public Funds

a. Duties and Responsibilities

Many incumbents of clerical and professional positions receive, record, file, read, disburse and/or receive public funds. These activities include, but are not limited to, payroll processing, personnel records, accounts receivable/payable, utility billing, cashiering and recreational activities.

b. Factors for Screening

Incumbents need to work without compromising financial security or entrustment of public funds and to avoid conflicts of interest.

B. Screening Procedure

1. All applicants for permanent positions with the Town of Vienna are required to submit to a medical examination prior to their appointment to a Town position. In order to gain such an appointment, the candidate must pass this examination. For those positions described above, the examination will include screening for a range of chemical substances. The type(s) of screening and the levels of the substances will be determined after consultation with the Town's medical service provider. A list of these screenings and substances shall be made available to both the public and Town employees and will be updated as needed.

2. Job announcements for applicable positions will state that substance screenings will be given as part of the pre-employment physical. In addition, at the time of the medical examination, applicants will be told of the substance screening and will be required to sign a consent form. Applicants who refuse to consent to substance screening or who attempt to tamper with the screening sample will not be eligible for Town employment.

a. In the event that an individual refuses to sign the consent form, the medical examination will not be conducted and the candidate will subsequently be medically disqualified by the Town on the basis of an incomplete medical examination. The candidate will further be advised that a second medical appointment will not be permitted at a later date and that the disqualification will remain in effect for one year

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from the date of refusal.

b. If, after having arrived at the medical facility, the candidate announces that he/she is unable to stay to complete the examination, another date will only be scheduled if the screening test is taken on the day of the original appointment. An applicant who refused to remain for this limited portion of the medical examination would then be medically rejected.

3. An applicant whose initial substance screen shows a positive result will automatically be given another screening using a different screening technique on the same sample. If the second screen of the same sample shows a negative result, the individual will not be disqualified from employment with the Town on account of the substance screen.

a. If the second test confirms the positive result, the applicant may be disqualified from consideration for Town employment for 12 months unless a third test of the same sample is done by the Town's medical service provider and shows a negative result. The applicant will be notified of the positive results of the second screening and will be given the opportunity, at his/her own expense, to have a third screening conducted on the same sample within 72 hours after the applicant is notified of the results of the second screen. Payment must be presented by the candidate before the third screen will be done.

b. If this final screen again confirms the positive test result, the candidate will be disqualified from obtaining employment with the Town of Vienna for the next 12 months.

III. SUBSTANCE SCREENING FOR CURRENT EMPLOYEES

A. Town employees are subject to substance screening if there is reasonable suspicion that, while on duty, they are impaired. Impairment is defined as being unable to perform their duties safely and competently due to use of alcohol or controlled substances. Reasonable suspicion is a belief based on objective facts sufficient to lead a reasonably prudent person to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or the employee's ability to perform his job safely is reduced.

B. Observations which may constitute a factual basis for determining reasonable suspicions may include, but are not limited to:

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1. Odor of alcoholic beverage or marijuana;
2. Erratic, nervous or irritable behavior;
3. Mood swings;
4. Excessive absenteeism, including tardiness;
5. An accident which is caused by the apparent action or inaction of the employee;
6. Inability to walk a straight line;
7. Verbal or physical altercation;
8. Possession of alcohol or drugs;
9. Slurred or rapid speech;
10. Profuse sweating;
11. Disorientation;
12. Personality changes;
13. Forgetfulness or indecisiveness;
14. Poor concentration;
15. Dilated or constricted pupils;
16. Hallucinations;
17. Dry mouth and/or headache;
18. Information obtained from a reliable person with personal knowledge;

C. The following procedure shall be used by a supervisor who has reasonable suspicion that an employee is impaired by alcohol or other substance(s) while on duty. The substance abuse checklist for action has been developed to aid in this process.

1. The supervisor shall observe the behavior of the impaired employee and make notes on the applicable Town form. The supervisor should use as a guideline the information contained in Section III (B). However, the above conditions could also be caused by illness and/or prescribed medication. Therefore, the supervisor shall make no attempt to diagnose the employee and shall focus solely on observable actions and his/her inability to perform job duties.

2. A witness shall be found before confronting the impaired employee. Whenever possible, this witness should be another supervisor. This second witness shall make independent notes on the employee's condition and the ability to perform the prescribed work activity. These two individuals shall then complete the impaired performance report.

3. In confronting the employee, there shall be NO accusation of alcohol or drug use. Instead, the employee is to be informed that he/she is not in a condition to work and what the observable behavioral and physical signs are. The supervisor shall ask the employee if there is a medical condition which could cause the impairment. The employee shall be relieved of

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his/her duties immediately.

4. The employee shall be requested to take an immediate substance screening at the Town's expense. The employee has the right to refuse to submit to the screening, but then he/she shall be subject to disciplinary action for failure to comply with supervisory instructions.

a. The supervisor shall submit the Substance Screening Request form to the Administrative Services Office which will in turn arrange for the screening. If a screening is required after normal working hours, the supervisor will make direct contact with the Town's designated medical service provider.

5. Employees who are scheduled for a substance screening must be transported to the designated medical facility by the employee's supervisor. This is to be done in a Town vehicle only and with the presence of another supervisor. The testing for substances will be made on a sample provided at the clinic. The type(s) of screening and the levels of the substances which constitute a positive screen will be determined administratively after consultation with the Town's medical service provider.

6. If the testing of the sample provides a negative result, the conclusion will be that the sample contains no alcohol or controlled substances. If the first screen shows a positive result, a second more sophisticated screen will be performed on the same sample. If the second screen indicates a negative result, it will be assumed that the individual was not impaired by alcohol or controlled substances. However, if the second screen indicates a positive result or in any way it is shown that the employee has tampered with the sample, the employee will be presumed to be impaired by alcohol or controlled substances.

a. If the second screening is positive, the employee is then presumed to have been impaired unless a third test of the same sample done by the Town's medical service provider is paid for by the employee and it shows a negative result. The employee will be notified of the positive results from the second screening and be given the opportunity, at the employee's expense, to have a third screen conducted on the same sample within 72 hours after the employee is notified of the results of the second screen. Payment must be presented by the employee before the third screening will be completed.

b. An employee whose test shows a positive result will have 24 hours after being notified of the positive result to provide bona fide verification of a current valid prescription which may have caused the positive result. The prescription must be in

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the employee's name and have been issued prior to the date of the test.

c. Upon a negative result, the employee shall return to work and job performance may be monitored.

7. The employee shall be placed on leave while undergoing the screening and shall not return to his/her job duties until the next regularly scheduled work day. If the screening results indicate that the employee was not under the influence of alcohol or any illegal substance, his/her timesheet shall show no time lost from work. However, if the screening results are positive, the employee shall be placed on leave without pay status from the time of the testing until he/she is able to return to work.

8. An employee who is relieved of his/her duties shall not be permitted to operate a motor vehicle. Every attempt shall be made to locate a family member or friend to transport the employee. If this is unsuccessful, a co-worker may drive the employee home. Any expenses incurred by the co-worker shall be reimbursed by the Town.

D. If the test results are positive, the following shall apply:

1. First offense: In an effort to encourage the employee to take responsibility for his/her problem, this first violation will result in a formal referral to the Employee Assistance Program. If the employee accepts the referral and completes the course of action prescribed by the Employee Assistance Program, no disciplinary action will be taken at that time concerning the impairment by alcohol or controlled substances. Final action will not be taken until a complete review of all the information on the incident is completed. If the employee refuses the referral or fails to complete the program, the employee will be discharged.

The above procedure does not apply to any employee of the Vienna Police Department. Any Police Department employee who tests positively for any illegal substance shall be immediately dismissed from the Town's service.

2. Second offense: The employee will be immediately dismissed from the Town service under Administrative Regulations 2.7 and 2.15 of Vienna's Personnel Policies and Procedures Manual.

E. Employees who refuse to submit to a substance screen when reasonable suspicion of substance use has been identified will be disciplined in accordance with Section 8 of the Town's Policies and Procedures Manual. In addition, a supervisor who has reasonable suspicion that an

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employee is impaired by alcohol or a controlled substance while on duty may immediately suspend the employee in accordance with the Town's personnel policies.

IV. EMPLOYEE SELF-DISCLOSURE

- A. In the event that a Town employee self-discloses the use or abuse of alcohol, illegal, controlled or other substance, it shall be handled using all the same standards, processes and procedures in place for a positive result from a reasonable suspicion test administered under Section III of this administrative regulation.

V. APPLICABLE DOCUMENTS

- Substance Abuse Checklist for Action (AS 2.20-1)
- Impaired Performance Report (AS 2.20-2)
- Substance Screening Request (AS 2.20-3)

<i>Signature of Town Manager:</i>	<i>Date:</i>
	