

RESOLUTION NO. 34-10-14

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AMENDING THE TOWN OF LAKE PARK HANDBOOK OF PROCEDURES AND POLICIES FOR EMPLOYEES OF THE TOWN OF LAKE PARK TO REVISE THE TOWN DRUG FREE WORKPLACE POLICY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Lake Park (“Town”) is a municipal corporation of the State of Florida with such power and authority as has been conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town Commission has previously adopted a Drug Free Workplace Policy which is set forth in the 2012 edition of the Town of Lake Park Handbook of Procedures and Policies for Employees of the Town of Lake Park (hereinafter referred to as the “Employee Handbook”); and

WHEREAS, the Town Commission recognizes that periodic adjustments must be made to the Drug Free Workplace Policy in order to keep it consistent with applicable state and federal laws; and

WHEREAS, Town staff has recommended to the Town Commission that the current Employee Handbook be amended to revise the Drug Free Workplace Policy; and

WHEREAS, the Town Commission has determined that it is in the best interest of Town employees to revise the Drug Free Workplace Policy as set forth in the 2012 edition of the Employee Handbook; and

WHEREAS, a true and correct copy of the proposed revised Drug Free Workplace Policy is attached hereto and incorporated herein as **Exhibit A**.

**NOW THEREFORE BE IT RESOLVED BY THE TOWN COMMISSION
OF THE TOWN OF LAKE PARK, AS FOLLOWS:**

Section 1. The whereas clauses are incorporated herein as true and correct and are hereby made a specific part of this Resolution.

Section 2. The Employee Handbook is hereby amended to revise the Drug Free Workplace Policy as set forth in the attached **Exhibit A.**

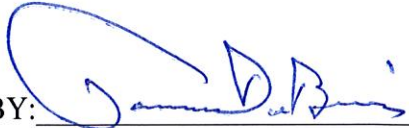
Section 3. This Resolution shall become effective immediately upon adoption.

The foregoing Resolution was offered by Commissioner O'Rourke who moved its adoption. The motion was seconded by Commissioner Rapoza and upon being put to a roll call vote, the vote was as follows:


	AYE	NAY
MAYOR JAMES DUBOIS	<u> / </u>	<u> </u>
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u> / </u>	<u> </u>
COMMISSIONER ERIN FLAHERTY	<u> / </u>	<u> </u>
COMMISSIONER MICHAEL O'ROURKE	<u> / </u>	<u> </u>
COMMISSIONER KATHLEEN RAPOZA	<u> / </u>	<u> </u>

The Town Commission thereupon declared the foregoing Resolution NO. 34-10-14 duly passed and adopted this 1 day of October , 2014.

TOWN OF LAKE PARK, FLORIDA


BY: 
JAMES DUBOIS
MAYOR

ATTEST:


VIVIAN MENDEZ
TOWN CLERK



Approved as to form and legal sufficiency:

BY: 
THOMAS J. BAIRD
TOWN ATTORNEY

**TOWN OF LAKE PARK DRUG FREE WORKPLACE POLICY AND PROCEDURES
POLICY STATEMENT, SECTION 8
“DRUG FREE WORKPLACE POLICY”**

I. PURPOSE

As a part of its commitment to safeguard the health of its employees, to provide a safe place for its employees to work and to promote a drug-free community, the Town has established its Drug Free Workplace Policy and Procedures on the use or abuse of alcohol and drugs by its employees. Substance and alcohol abuse, while at work or otherwise, seriously endangers the safety of employees, as well as the general public, and creates a variety of workplace problems including increased injuries on the job, increased absenteeism, increased health care and benefit costs, increased theft, decreased morale, decreased productivity and a decline in the quality of products and services provided. Continuing research and practical experience have proven that even limited quantities of narcotics, abused prescription drugs or alcohol can impair reflexes and judgment. For these reasons, the Town policy requires that all employees must report to work and work completely free from the presence of illegal drugs or alcohol in their bodies, and to assist employees in overcoming any dependence on drugs and/or alcohol in accordance with the following guidelines.

This policy is established to provide guidelines on handling incidents of alcohol and/or drug abuse as it relates to the workplace, in compliance with the drug-free workplace requirements under the Florida Statutes Workers' Compensation Chapter (Fla. Stat. § 440.101-02). The legislative intent of the Chapter is to promote drug-free workplaces in order for employers to be afforded the opportunity to maximize their levels of productivity, enhance their competitive positions in the marketplace, and reach their desired levels of success without experiencing the costs, delays, and tragedies associated with work-related accidents resulting from drug abuse by employees. Further, drug abuse is discouraged under the statute, and employees who choose to engage in drug abuse face the risk of unemployment and the forfeiture of workers' compensation benefits. To qualify as having established a drug-free workplace program under Chapter 440 and to qualify for discounts provided under section 627.0915, Florida Statutes, and deny medical and indemnity benefits under this chapter, the Town must implement drug testing that conforms to the standards and procedures established in section 440.102. The Town has implemented a drug-free workplace program in accordance with the notice, education, and procedural requirements taken directly from the comprehensive procedures outlined in Florida Statute § 440.102. Chapter 59A-24 of the Florida Administrative Code, containing the Drug-Free Workplace Standards adopted by the Agency for Health Care Administration, is also hereby incorporated by reference and shall be utilized for all drug testing pursuant to Chapter 440, Florida Statutes.

Questions concerning the Town's policy should be presented to the Human Resources Director for guidance or clarification.

II. DEFINITIONS

The definitions set forth in Chapter 440, Florida Statutes, and Chapter 59A-24 Florida Administrative Code will apply to the terms used in this policy. In pertinent part:

- a. **Confirmation test, confirmed test, or confirmed drug test** refer to a second analytical procedure used to identify the presence of a specific drug or metabolite in a specimen, which test must be different in scientific principle from that of the initial test procedure and must be capable of providing requisite specificity, sensitivity, and quantitative accuracy.
- b. **Drug** means alcohol, including a distilled spirit, wine, a malt beverage, or an intoxicating liquor; an amphetamine; a cannabinoid¹; cocaine; phencyclidine (PCP); a hallucinogen; methaqualone; an opiate; a barbiturate; a benzodiazepine; a synthetic narcotic; a designer drug; or a metabolite of any of the substances listed in this paragraph. An employer may test an individual for any or all of such drugs.
- c. **Drug Rehabilitation Program** means a service provider, established pursuant to s. 397.311(33), Florida Statutes, that provides confidential, timely, and expert identification, assessment, and resolution of employee drug abuse.
- d. **Drug test or test** refer to any chemical, biological, or physical instrumental analysis administered, by a laboratory certified by the United States Department of Health and Human Services or licensed by the Agency for Health Care Administration, for the purpose of determining the presence or absence of a drug or its metabolites.
- e. **Initial DrugTest** means a sensitive, rapid, and reliable procedure to identify negative and presumptive positive specimens, using an immunoassay procedure or an equivalent, or a more accurate scientifically accepted method approved by the United States Food and Drug Administration or the Agency for Health Care Administration as such more accurate technology becomes available in a cost-effective form.

¹ "Drug" is defined herein as defined in Fla. Stat. § 440.102(1)(c). The section 440.102 has not been amended since the passage of Fla. Stat. § 381.986, the legislature has not expressly provided an exception to the definition of "drug" for medically prescribed low-THC Cannabis (as defined in section 381.986). "Drug" is therefore interpreted by the Town as including all cannabinoids, including low-THC Cannabis. However, through section 440.102(1)(l)'s reference to section 893.02 (which defines "cannabis" as excluding low-THC Cannabis), this policy shall treat low-THC Cannabis as a prescription drug, and all appropriate rules and requirements shall apply accordingly.

f. **Job Applicant** means a person who has applied for a mandatory-testing position. Mandatory testing positions include the following:

- Camp Counselor
- Childrens' Services Assistant
- Dock Attendant
- Equipment Operator I
- Equipment Operator II
- Equipment Operator III
- Facilities Mechanic
- Foreman General Infrastructure
- Foreman
- Grounds Maintenance Crew Leader
- Human Resources Director
- Librarian I
- Library Assistant II

g. **Medical Review Officer or MRO** mean a licensed physician, employed with or contracted with an employer, who has knowledge of substance abuse disorders, laboratory testing procedures, and chain of custody collection procedures; who verifies positive, confirmed test results; and who has the necessary medical training to interpret and evaluate an employee's positive test result in relation to the employee's medical history or any other relevant biomedical information.

h. **Prescription or non-prescription medication** refer to drugs or medication obtained pursuant to a prescription as defined by section 893.02², Florida Statutes, or a medication that is authorized pursuant to federal or state law for general distribution and use without a prescription in the treatment of human diseases, ailments, or injuries.

i. **Reasonable-suspicion drug testing** means drug testing based on a belief that an employee is using or has used drugs in violation of the employer's policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon:

1. Observable phenomena while at work, such as direct observation of drug use or the physical symptoms or manifestations of being under the influence of a drug.

² As referenced above in subsection (b), defining "drugs" under this Policy, section 893.02 defines "Cannabis" as excluding "low-THC cannabis", as long as the low-THC cannabis is manufactured, possessed, sold, purchased, delivered, distributed, or dispensed in conformance with section 381.986, Florida Statutes. Accordingly, such low-THC cannabis will be evaluated as a prescription drug, and employees must conform with the requirements of section (V)(F) of this Policy.

2. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance
 3. A report of drug use, provided by a reliable and credible source.
 4. Evidence that an individual has tampered with a drug test during his or her employment with the current employer.
 5. Information that an employee has caused, contributed to, or been involved in an accident while at work.
 6. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the employer's premises or while operating the employer's vehicle, machinery, or equipment.
- j. **Mandatory-testing position** means a job assignment that requires the employee to carry a firearm, work closely with an employee who carries a firearm, perform life-threatening procedures, work with heavy machinery, work as a safety inspector, work with children, work with detainees in the correctional system, work with confidential information or documents pertaining to criminal investigations, work with controlled substances, or a job assignment that requires an employee security background check, pursuant to section 110.1127, Florida Statutes, or a job assignment in which a momentary lapse in attention could result in injury or death to another person.
- k. **Special-risk position** means a position that is required to be filled by a person who is certified under Chapter 633 (Fire Prevention and Control) or Chapter 943 (Department of Law Enforcement), Florida Statutes.
- l. **Specimen** means tissue, hair, or a product of the human body capable of revealing the presence of drugs or their metabolites, as approved by the United States Food and Drug Administration or the Agency for Health Care Administration.

III. NOTICE

- a. Prior to testing, an employee or job applicant shall receive proper notice in the form of this Comprehensive Alcohol and Drug Abuse Policy. Additionally, Chapter 59A-24 of the Florida Administrative Code shall be provided upon request.
- b. The drugs to be tested for are included in the definition provided above. The following is a list of over-the-counter and prescription drugs which could alter or affect a test result:
 - i. Alcohol: all liquid medications containing ethyl alcohol (ethanol). For example: Vick's Nyquil is 25% (50 proof) ethyl alcohol, Comtrex is 20% (40 proof), Contact Severe Cold Formula Night Strength is 25% (50 proof) and Listerine is 26.9% (54 proof). Check the label of liquid medications for alcohol content.
 - ii. Amphetamines: Obetrol, Biphetamine, Desoxyn, Dexedrine, Didrex, Ionamine, Fastin
 - iii. Cannabinoids: Marinol
 - iv. Cocaine: Cocaine HCl topical solution (Roxanne)
 - v. Phencyclidine : Not legal by prescription

- vi. Methaqualone: Not legal by prescription
- vii. Opiates: Paregoric, Parepectolin, Donnagel PG, Morphine, Tylenol with Codeine, Empirin with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guiatuss AC, NOVahistine DH, Novahistine Expectorant, Dilaudid (Hydromorphone), M-S Contin and Roxanol (morphine sulfate), Percodan, Vicodin, Tussi-organidin, etc.
- viii. Barbiturats: Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorinal, Fioricet, Esgic, Butisol, Mebaral, Butabarbital, Butalbital, Phrenilin, Triad, etc.
- ix. Benzodiazepines: Ativan, Azene, Clonpin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Halcion, Paxipam, Restoril, Centrax.
- x. Methadone: Dolphine, Metadose
- xi. Propoxyphene: Darvocet, Darvon N, Dolene, etc.

This list is not intended to be all-inclusive.

- c. The following are the name, address and telephone number of the Town's Employee Assistance Program (EAP) through which substance abuse assessment and counseling services are available to Town employees. The Town will pay the cost of such services if the Town's sponsored EAP program is used:

Center for Family Services
 4101 Parker Avenue
 West Palm Beach, FL 33405
 Telephone: 561-616-1222 ext. 227

- d. The Town has a collective bargaining agreement, which acknowledges the Town's adherence to Fla. Stat. § 440 and requirements for a drug free workplace policy in conjunction with workers' compensation rights. For employees whose positions are covered by the collective bargaining agreement, appeals of disciplinary actions may be brought forth following the procedures set forth in the collective bargaining agreement. More specifically: All regular full-time and regular part-time employees may make an appeal of disciplinary action or other management decision by addressing the appeal to the Employee Complaint Review Committee (ECRC). In the event of an appeal of disciplinary action, the employee may request such an appeal requesting that the ECRC determine the appropriateness of the recommended disciplinary action. Such request shall be submitted in writing to the Human Resources Director within five (5) workdays of the disciplinary recommendation using the prescribed form. The Human Resources Director shall forward the request to the Town Manager who shall submit the request to the ECRC to convene the meeting.

IV. WHEN TESTING MAY BE REQUIRED

The Town may require an employee to submit to tests for the presence of drugs after proper notice, under any of the following circumstances:

- a. As part of the initial screening process for job applicants applying for special-risk or mandatory-testing positions, as defined above.
- b. Whenever an employee's job classification is changed such that the new job classification is a special-risk or mandatory-testing position, as defined above.
- c. Whenever Reasonable-Suspicion Drug Testing is warranted, as defined above.
- d. As part of routine fitness for duty drug testing for employees in special-risk or mandatory-testing positions.

The following job positions require a current commercial drivers' license and are subject to routine fitness for duty drug testing every two years:

- Public Works Director
- Recreation Director
- Foreman General Infrastructure
- Foreman
- Vehicle Maintenance Foreman
- Equipment Operator II
- Equipment Operator III
- Stormwater Technician I
- Stormwater Technician II
- Maintenance Worker II
- Maintenance Worker III
- Grounds Maintenance Crew Leader
- Facilities Maintenance Worker III
- Recreation Bus Driver

For follow-up drug testing, if the employee in the course of employment enters an employee assistance program for drug-related problems, or a drug rehabilitation program, the employee is required to submit to a drug test as follow-up to such program, unless the employee voluntarily entered the program. In those cases, the Town has the option to not require follow-up testing. If follow-up testing is required, it must be conducted at least once a year for a two year period after completion of the program. Advance notice of a follow-up testing date must not be given to the employee to be tested.

V. DRUG USE PROHIBITIONS FOR ALL EMPLOYEES

Though mandatory testing may only be conducted under the circumstances listed and described above, the following conduct is prohibited for all employees pursuant to the Town's effort to provide a safe, healthy, drug-free workplace and promote a drug-free community:

- A. All employees are prohibited from manufacturing, distributing, dispensing, possessing, using or being impaired, intoxicated or under the influence of drugs (as defined in the policy) while on duty, operating a Town vehicle or equipment or on Town property including parking areas or while otherwise performing Town duties away from the Town.
- B. Off-duty abuse of drugs which adversely affects an employee's job performance, or which can be expected to cause harm to the Town's image or relationship with other employees or the public, is prohibited.
- C. An employee who is perceived to be under the influence of drugs will be removed immediately from the workplace and may be evaluated by medical personnel, if reasonably available. The Town will take further action based on medical information, work history and other relevant factors and will conduct the appropriate drug test if reasonable suspicion is found. The determination of what action is appropriate in each case rests solely with the Town.
- D. Employees arrested for an alcohol or drug related incident shall immediately notify their supervisor or Department Head who shall immediately notify the Human Resources Director.
- E. For the purpose of this policy, an employee is presumed to be impaired by drugs if the results of a urine test or any other accepted testing procedure is positive for the presence of one or more of the illegal substances for which the Town will test.
- F. The proper use of medication prescribed by your physician is not prohibited; however, this policy expressly prohibits the misuse of prescribed medications. Prescription drugs may also affect the safety of the employee, fellow employees or members of the public. Therefore, any employee who is taking any prescription drug which might impair safety, performance or any motor functions must advise his/her supervisor before reporting to work under such medication. Failure to do so may result in disciplinary action. It is the employee's responsibility to determine from his/her physician whether a prescribed drug may impair job performance. If the Town determines that such use does not pose a safety risk, the employee will be permitted to work. If such use impairs the employee's ability to safely or effectively perform his or her job the Town may, at its sole discretion, temporarily reassign the employee or grant a leave of absence during the period of treatment. Improper use of prescription drugs is prohibited and may result in disciplinary action, up to and including termination of employment. Prescription medication must be kept in its original container if such medication is taken during working hours or on Town property, or

the prescription must be available to be brought in by the employee and made available upon request by the employee's supervisor within a reasonable period of time.

- G. It shall be the responsibility of each employee who observes or has knowledge of another employee in a condition which impairs the employee to perform his/her job duties, or who presents a hazard to the safety and welfare of others or is otherwise in violation of this policy, to promptly report that fact to his/her immediate supervisor.

VI. TESTING PROCEDURES AND EMPLOYEE PROTECTION

The following procedure will be used for testing in accordance with this Policy and Chapter 440:

- A. A sample shall be collected with due regard to the privacy of the individual providing the sample, and in a manner reasonably calculated to prevent substitution or contamination of the sample.
- B. Specimen collection must be documented and the documentation procedures shall include: (1) labeling specimen containers so as to reasonably preclude the likelihood of erroneous identification of test results; and (2) a form for the employee or job applicant to provide any information he or she considers relevant to the test, including identification of currently or recently used prescription or nonprescription medication or other relevant medical information. The form must provide notice of the most common medications by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test. The providing of information shall not preclude the administration of the drug test but shall be taken into account in interpreting any positive confirmed test result.
- C. Specimen collection, storage, and transportation to testing site shall be performed in a manner that reasonably precludes contamination or adulteration of specimens.
- D. Each confirmation test conducted shall be conducted by a licensed or certified laboratory pursuant to Chapter 440.
- E. A specimen may be taken or collected by: a physician, a physician assistant, a registered professional nurse, a licensed practical nurse, or a nurse practitioner, or a certified paramedic who is present at the scene of an accident for the purpose of rendering emergency medical service or treatment; or a qualified person employed by a licensed or certified laboratory as outlined in Chapter 440.
- F. The person who collects or takes a specimen shall collect an amount sufficient for two drug tests as determined by the Agency for Health Care Administration.
- G. Every specimen that produces a positive, confirmed test result shall be preserved by the licensed or certified laboratory that conducted the confirmation test for a period of at least 210 days after the result of the test was mailed or otherwise delivered to the medical review officer. However, if an employee or job applicant undertakes an administrative or legal challenge to the test result, the employee or job applicant shall notify the laboratory and the sample shall be retained by the laboratory until the case or administrative appeal is settled. During the 180 day

period after written notification of a positive test result, the employee or job applicant who has provided the specimen shall be permitted by the employer to have a portion of the specimen retested, at the employee's or job applicant's expense, at another laboratory, licensed and approved by the Agency for Health Care Administration, chosen by the employee or job applicant. The second laboratory must test at equal or greater sensitivity for the drug in question as the first laboratory. The first laboratory that performed the test for the employer is responsible for the transfer of the portion of the specimen to be tested and for the integrity of the chain of custody during such transfer.

- H. Within 5 working days after receipt of a positive confirmed test result from the medical review officer, the Town shall inform an employee or job applicant in writing of such positive test result, the consequences of such results, and the options available to the employee or job applicant. The Town shall provide the employee or job applicant a copy of the test results upon request.
- I. Within 5 working days after receiving notice of a positive confirmed test result, an employee or job applicant may submit information to the Town explaining or contesting the test result, and explaining why the result does not constitute a violation of the employer's policy.
- J. If the employee's or job applicant's explanation or challenge of the positive test result is unsatisfactory to the Town, a written explanation as to why the employee's or job applicant's explanation is unsatisfactory, along with the report of positive result, shall be provided by the Town to the employee or job applicant; and all such documentation shall be kept confidential by the Town pursuant to Chapter 440 and shall be retained by the Town for at least 1 year.
- K. The Town may not discharge, discipline, refuse to hire, discriminate against, or request or require rehabilitation of an employee or job applicant on the sole basis of a positive test result that has not been verified by a confirmation test and by a medical review officer.
- L. The Town shall use chain-of-custody procedures established by the Agency for Health Care Administration to ensure proper recordkeeping, handling, labeling, and identification of all specimens tested.
- M. The Town shall pay the cost of all drug tests, initial and confirmation, which the employer requires of employees. An employee or job applicant shall pay the costs of any additional drug tests not required by the Town.
- N. The Town shall not discharge, discipline, or discriminate against an employee solely upon the employee's voluntarily seeking treatment, while under the employ of the Town, for a drug-related problem if the employee has not previously tested positive for drug use, entered an employee assistance program for drug-related problems, or entered a drug rehabilitation program. Unless otherwise provided by a collective bargaining agreement, the Town may select the employee assistance program or drug rehabilitation program if the Town pays the cost of the employee's participation in the program.
- O. If drug testing is conducted based on reasonable suspicion, the Town shall promptly detail in writing the circumstances which formed the basis of the determination that reasonable suspicion existed to warrant the testing. A copy of this documentation shall be given to the employee upon request and the original

documentation shall be kept confidential by the Town pursuant to subsection (8) of Section 440.102, and shall be retained by the employer for at least 1 year.

P. All authorized remedial treatment, care, and attendance provided by a health care provider to an injured employee before medical and indemnity benefits are denied under this section must be paid for by the carrier or self-insurer. However, the carrier or self-insurer must have given reasonable notice to all affected health care providers that payment for treatment, care, and attendance provided to the employee after a future date certain will be denied. A health care provider, as defined in s. 440.13(1)(g), that refuses, without good cause, to continue treatment, care, and attendance before the provider receives notice of benefit denial commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Q. Confirmation Testing

1. If an initial drug test is negative, the Town may in its sole discretion seek a confirmation test.
2. Only licensed or certified laboratories may conduct confirmation drug tests.
3. All positive initial tests shall be confirmed using gas chromatography/mass spectrometry (GC/MS) or an equivalent or more accurate scientifically accepted method approved by the Agency for Health Care Administration or the United States Food and Drug Administration as such technology becomes available in a cost-effective form.
4. If an initial drug test of an employee or job applicant is confirmed as positive, the Town's medical review officer shall provide technical assistance to the employer and to the employee or job applicant for the purpose of interpreting the test result to determine whether the result could have been caused by prescription or nonprescription medication taken by the employee or job applicant.

VII. TOWN PROTECTION

- a. An employee or job applicant whose drug test result is confirmed as positive in accordance with this section shall not, by virtue of the result alone, be deemed to have a "handicap" or "disability" as defined under federal, state, or local handicap and disability discrimination laws.
- b. No physician-patient relationship is created between an employee or job applicant and the Town or any person performing or evaluating a drug test, solely by the establishment, implementation, or administration of a drug-testing program.
- c. If an employee or job applicant refuses to submit to a drug test, the Town is not barred from discharging or disciplining the employee or from refusing to hire the job applicant.

VIII. CONFIDENTIALITY PURSUANT TO SUBSECTION (8) OF SECTION 440.102, FLORIDA STATUTES

- a. Except as otherwise provided in this subsection, all information, interviews, reports, statements, memoranda, and drug test results, written or otherwise, received or produced as a result of a drug-testing program are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in accordance with this section or in determining compensability under this chapter.
- b. The Town laboratories, medical review officers, employee assistance programs, drug rehabilitation programs, and their agents may not release any information concerning drug test results obtained pursuant to this section without a written consent form signed voluntarily by the person tested, unless such release is compelled by an administrative law judge, a hearing officer, or a court of competent jurisdiction pursuant to an appeal taken under this section or is deemed appropriate by a professional or occupational licensing board in a related disciplinary proceeding. The consent form must contain, at a minimum:
 - 1. The name of the person who is authorized to obtain the information.
 - 2. The purpose of the disclosure.
 - 3. The precise information to be disclosed.
 - 4. The duration of the consent.
 - 5. The signature of the person authorizing release of the information.
- c. Information on drug test results shall not be used in any criminal proceeding against the employee or job applicant. Information released contrary to this section is inadmissible as evidence in any such criminal proceeding.
- d. This subsection does not prohibit the Town, an agent of the Town, or laboratory conducting a drug test from having access to employee drug test information or using such information when consulting with legal counsel in connection with actions brought under or related to this section or when the information is relevant to its defense in a civil or administrative matter.
- e. In accordance with Attorney General Opinion 2013-19, drug test results obtained by the Town pursuant to this drug-testing program are not subject to inspection or copying pursuant to a request under Chapter 119, Florida Statutes, Florida's Public Records Law.

IX. DRUG TESTING STANDARDS FOR LABORATORIES

The Town will follow the Drug-Testing Standards for Laboratories as outlined in subsection (9) of Section 440.102, Florida Statutes. Also see the drug-testing standards included in Chapter 59A-24 of the Florida Administrative Code, which will be provided upon request.

X. EMPLOYEES TESTING POSITIVE FOR DRUG USE

- a. If an employee in a mandatory-testing position enters an employee assistance program or drug rehabilitation program, the Town must assign the employee to a position other than a mandatory-testing position or, if such position is not available, place the employee on leave while the employee is participating in the program. However, the employee shall be permitted to use any accumulated annual leave credits before leave may be ordered without pay.
- b. An employee in a special-risk position may be discharged or disciplined by the Town for the first positive confirmed test result if the drug confirmed is an illicit drug under s. 893.03. A special-risk employee who is participating in an employee assistance program or drug rehabilitation program may not be allowed to continue to work in any special-risk or mandatory-testing position of the Town, but may be assigned to a position other than a mandatory-testing position or placed on leave while the employee is participating in the program. However, the employee shall be permitted to use any accumulated annual leave credits before leave may be ordered without pay.

XI. ARREST OR CONVICTION FOR DRUG-RELATED CRIME

- A. If an employee is arrested for or convicted of a drug-related crime, the Town will investigate the circumstances and direct the implementation of drug-testing procedures if cause is established by the investigator. In most cases, an arrest for a drug-related crime constitutes reasonable suspicion of drug use under this policy. The following procedures will apply:
 1. During investigation, an employee may, at the Town's discretion, be placed on leave without pay. After the investigation is completed, the leave may be converted to a suspension without pay or other disciplinary action, or the employee may be reinstated depending upon the facts and circumstances.
 2. If convicted of a drug-related crime, an employee will be terminated from employment.
 3. If an employee has been suspended and the case has been dismissed or otherwise disposed of, the Town will make a determination as to whether to authorize the employee's return to work based on its investigation. If the employee is authorized to return to work, the employee must agree in writing to unannounced, periodic testing for a period of up to two (2) years.
 4. Because of the seriousness of such situations, the Town reserves the right to alter or change its policy or decision on a given situation depending upon its investigation and the totality of the circumstances.

- B. As a condition of continued employment, an employee shall notify the Town of any criminal drug statute arrest or conviction immediately or by the beginning of the next business day.

XII. DENIAL OF BENEFITS

The Town shall deny an employee medical or indemnity benefits under Chapter 440 for a violation of the Drug-Free workplace program implemented by the Town.

XIII. INVESTIGATIONS/SEARCHES

- A. Where the Town has reasonable suspicion that an employee has violated the substance abuse policy, the Town may inspect vehicles, lockers, work areas, desks, purses, briefcases, tool boxes and other locations or belongings on the Town's premises without prior notice, in order to ensure a work environment free of prohibited substances. An employee may be asked to be present and remove a personal lock. Where the employee is not present or refuses to remove a personal lock, the Town may do so for him or her, and compensate the employee for the lock. Any such searches will be coordinated with a representative of management.
- B. Individuals may be requested to display personal property for visual inspection upon Town request. Failure to consent to a search or display personal property for visual inspection will be grounds for discharge or denial of access to Town premises.
- C. Individuals may be required to empty their pockets, but under no circumstances will an employee be required to remove articles of clothing or be physically searched.
- D. Employees will be subject to discipline, up to and including termination of employment, for refusing to cooperate with searches or investigations.