

Policy No. 2022-01
Approved December 13, 2022

TOWN OF LUCAS POLICY REGARDING SUBSTANCE ABUSE

The Town Board of the Town of Lucas, Dunn County, Wisconsin, do ordain as follows:

1. **Purpose.** The Town of Lucas is strongly committed to providing a safe workplace. Since our employees are our most valuable resource and the safety and well-being of our employees and the general public are of paramount concern to us, we have developed a Substance Abuse Policy to help us maintain a work environment that is free from the effects of drugs and alcohol.
2. **Applicability.** The policies and procedure contained within this policy are applicable to employees required to have a commercial driver's license (CDL) who operate a commercial motor vehicle as defined in Part 382 of Title 49 of the Code of Federal Regulations.
3. **Policy.** The widespread abuse of drugs and alcohol in today's society poses a very serious problem. The use and/or abuse of these substances jeopardizes the health, safety and well-being of all of our employees and the general public, and increases business costs by contributing to increased incidents of accidents, injuries and theft; lower productivity and morale; excessive absenteeism and tardiness; and excessive health care costs. This Substance Abuse Policy includes provisions calling for the use of drug and alcohol testing under circumstances which recognize and respect the dignity and privacy of our employees.

We encourage any employee that may have a problem with substance abuse to come forward confidentially and work to resolve the problem before it leads to disciplinary action.

3.1. Testing Circumstances.

- 3.1.1. Pre-Employment (drug only). Candidates will be subject to a drug test prior to employment. No employee will be permitted to perform any safety-sensitive function, including the driving of any Town of Lucas vehicle, until they have received a negative drug test result.
- 3.1.2. Post-Accident. In the event of an accident involving a commercial motor vehicle operating on a public road in commerce, the involved employee will be subject to a drug and alcohol test in the following circumstances:
 - 3.1.2.1. If the accident involved the loss of human life;
 - 3.1.2.2. If the employee receives a citation for a moving traffic violation arising from the accident, and the accident involves either:
 - 3.1.2.2.1. Bodily injury to any person who immediately receives medical treatment away from the scene of the accident; or
 - 3.1.2.2.2. One or more motor vehicles incurring disabling damage requiring the motor vehicle to be transported away from the scene by tow.
- 3.1.3. Random. Employees will be subject to random drug and alcohol testing. Random testing will be conducted without notice to randomly selected

employees. Employees may be grouped into drug and alcohol testing pools based on job function, safety sensitive drivers must be in a separate pool and could include (e.g. mechanic with a CDL). All employees within each pool have an equal chance of testing.

- 3.1.4. Reasonable Suspicion. Employees will be subject to reasonable suspicion drug and alcohol testing if a trained supervisor or trained Town of Lucas official believes or suspects that the employee is under the influence of drugs or alcohol (or both).
- 3.1.5. Return-to-Duty & Follow-Up. Employees retained by the Town of Lucas after a positive test result or a test refusal will be subject to return-to-duty drug and alcohol testing. No employee will be permitted to perform any safety-sensitive function until they have received a verified negative drug and alcohol test result. Thereafter, such employees will be subject to certain follow-up drug and alcohol testing as established by Substance Abuse Professional (SAP).

3.2. Collection Procedures.

- 3.2.1. Drug and/or alcohol testing will be conducted at a facility designated by the Town of Lucas or Consortium Partner. Specimen collection, analysis and reporting will be conducted in accordance with procedures which are consistent with the federal regulations enumerated in 49 CFR Part 40 and all applicable guidance and state laws. These collection procedures are designed to protect the employee and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct employee.
- 3.2.2. When an applicant or employee is required to submit to a drug or alcohol test, that individual will be instructed when and where to report for the specimen to be collected.
- 3.2.3. The applicant or employee will be required to provide proper positive identification.
- 3.2.4. The collection site will follow acceptable processes for the collection and verification of the integrity of the sample. If an employee or applicant is unable to provide a sufficient sample for testing, the employee or applicant may be required to make another attempt or submit to a medical examination to determine whether or not the failure to provide a sufficient sample has a medical basis or constitutes a refusal to cooperate. The collection site will follow acceptable guidance on this subject.
- 3.2.5. Urine samples will be collected and used for drug testing. Breath samples will be used for alcohol testing. Blood may be used as an alternative testing or confirmation method in some cases. Urine samples will be given in private, unless there is reason to believe that the individual has altered or substituted samples. In such instances, the individual may be required to give a second sample under the direct observation of a witness of the same sex, or testing may be terminated and the employee disciplined up to and including discharge, or an applicant may be denied employment.
- 3.2.6. Employees required to submit to a reasonable cause or post-accident test will not be allowed to drive themselves to or from the collection site. The Town of Lucas will make arrangements for the employee's safe transport to and from the collection site. Employees required to undergo a reasonable cause or post-accident test will not be allowed to return to work for the remainder of that work shift unless a negative test result has first been provided to the Town of

Lucas. Thereafter, the Town of Lucas may allow the employee to return to work pending the results of the test if the Town of Lucas is satisfied the employee does not present an immediate danger to themselves or others. If the test results are negative the employee will be returned to work with no loss of pay or seniority.

- 3.2.7. In the case of testing after an accident, if the employee requires medical attention, necessary medical attention will not be delayed in order to collect the specimen. The employee must provide the necessary authorization for the Town of Lucas to obtain hospital tests, records or other reports, including reports from law enforcement authorities that would indicate whether there were any drugs/alcohol in the employee's system and the levels of those substances present. If the employee refuses, the employee may be disciplined up to and including discharge.
- 3.2.8. Employees and applicants are required to cooperate in the collection procedures and comply with the requests of the Town of Lucas, collection facility and others in implementing the Policy. A failure or refusal to cooperate may result in discipline up to and including discharge for an employee; or the denial of employment to an applicant.

3.3. Testing Procedures.

- 3.3.1. Urine samples will be tested to detect the presence of drugs. Breath/saliva samples will be taken for detecting the presence of alcohol. Alternative samples may be analyzed for the presence of drugs or alcohol in appropriate medical circumstances.
- 3.3.2. Testing will be performed by a certified lab as required by DOT regulations. The laboratory will be required to maintain strict compliance with federally-approved chain-of-custody procedures, quality control, maintenance, and scientific analytical methodologies.
- 3.3.3. The laboratory must report all confirmed positive test results directly to the designated medical review officer (MRO). The MRO is responsible for reviewing and interpreting all confirmed positive, adulterated, substituted, or invalid drug test results. The MRO must determine whether alternative medical explanations could account for the test results. The MRO must also give the employee who has a positive, adulterated, substituted, or invalid drug test an opportunity to discuss the results prior to making a final determination. After the decision is made, the MRO must notify the Town of Lucas's designated employer representative (DER).
- 3.3.4. An employee who receives a positive, adulterated, or substituted drug test result has 72 hours to request the test of the split specimen (which is provided at the time of original collection). If the employee requests the testing of the split, the MRO must direct (in writing) the lab to provide the split specimen to another certified laboratory for analysis. The employee will pay for the testing of the split specimen.

3.4. Test Results and Employment Status.

- 3.4.1. All confirmed positive drug test results will be referred to a Medical Review Officer (MRO) for analysis and confirmation of the positive result. The MRO will review the results and documentation and attempt to contact the employee or applicant to discuss the results. The employee can offer any information to the MRO to rebut or explain the results of the drug test. The MRO will decide

whether or not to confirm the drug test result as positive and report the results to the Town of Lucas.

- 3.4.2. An employee will receive written notification of the test result and the action to be taken by the Town of Lucas based on those results.
- 3.4.3. The Town of Lucas will deny employment to any applicant testing positive. Should an applicant denied employment due to a positive test result subsequently reapply for a job opening, the Town of Lucas will consider the application only if all of the following conditions are met by the applicant:
 - 3.4.3.1. Six (6) months must have elapsed since the applicant was denied employment;
 - 3.4.3.2. The applicant participated in and successfully completed a recognized evaluation program and any recommended treatment; provided the Town of Lucas with documentation of the same; continue with any recommended follow-up and after-care monitoring program and provide the Town of Lucas with the necessary consent to allow access to the relevant medical information to assure compliance; and pass a drug/alcohol test prior to hire;
 - 3.4.3.3. If hired, the individual will be required to submit to follow-up testing provisions as well as the other testing provisions of this program. Any positive test will result in the employee's discharge.
- 3.4.4. An employee testing positive will be immediately removed from performing any safety-sensitive function (including driving) and may be disciplined up to and including discharge.

3.5. Evaluation and Treatment Opportunity.

- 3.5.1. The Town of Lucas is not required to provide a Substance Abuse Professional (SAP) evaluation or any subsequent recommended education or treatment through an employee assistance program for an employee who has violated a DOT drug and alcohol regulation, however, if the Town of Lucas, at its sole discretion, offers the employee an opportunity to return to a DOT safety-sensitive duty following a violation, the Town of Lucas must, before the employee again performs that duty, ensure that the employee receives an evaluation by a SAP meeting the requirements of the regulations and that the employee successfully complies with the SAP's evaluation recommendations.
- 3.5.2. An opportunity for evaluation and treatment will only be considered if the incident is the employee's first violation of the Substance Abuse Policy.
- 3.5.3. Before being returned to work and any safety-sensitive function, the Town of Lucas must ensure that the employee takes a return-to-duty test. The return-to-duty test cannot occur until:
 - 3.5.3.1. The employee has been evaluated by a SAP to determine what education and/or treatment the employee needs to resolve problems related to alcohol or drug use;
 - 3.5.3.2. The employee has successfully complied with the prescribed education and/or treatment;
 - 3.5.3.3. The employee has been re-evaluated by the SAP to ensure that the employee has properly followed the education and/or treatment program.
- 3.5.4. Any subsequent violations of the policy will result in the employee's immediate discharge.

- 3.5.5. The employee must cooperate in, comply with and successfully complete the evaluation and any recommended treatment program. A refusal or failure to cooperate in, comply with or successfully complete the evaluation and any recommended treatment and follow-up or after-care monitoring will subject the employee to discipline up to and including discharge.
- 3.5.6. If a leave of absence is necessary to participate in the treatment, such leave will be accorded the employee for a reasonable and medically necessary period of time. The reasonableness of the requested leave will be evaluated in part by the nature and duration of the employee's work assignment and seniority. Upon the advice and recommendation of the evaluator and treatment professional that an employee be returned to work during participation in the evaluation and treatment, the Town of Lucas, with the aid of the evaluator and treatment professional, will determine if the employee can be returned to his or her safety-sensitive job in compliance with federal regulations and without posing a health or safety risk to the employee or others.
- 3.5.7. Any employee participating in an evaluation and/or treatment program will consent to the release of necessary information to the Town of Lucas in order for the Town of Lucas to monitor the employee's compliance with this Substance Abuse Policy and the conditions of the evaluation and treatment. If the Town of Lucas is notified by the evaluator or treatment provider that the employee is not complying with the terms of the evaluation and/or treatment, the employee may be disciplined up to and including discharge. Compliance includes regular attendance at meetings and sessions as required by the evaluator and/or treatment provider.
- 3.5.8. Employees participating in or completing evaluation and/or treatment will be required to submit to follow-up testing in accordance with recommendations of the SAP and as otherwise deemed necessary by the Town of Lucas. Any positive test will result in the employee's discharge.

3.6. Invalid Test Results.

- 3.6.1. In the event any sample taken is found to be invalid or unreliable due to circumstances unrelated to the conduct of the employee or applicant, the employee or applicant may be required to provide a new sample for testing. All provisions of the policy will apply as if it were the initial request for testing.
- 3.6.2. If the sample is determined to be invalid or unreliable due to circumstances related to the employee's or applicant's conduct, the employee may be disciplined up to and including discharge or the applicant will be denied employment. Employees receiving discipline in lieu of discharge will be required to provide a new sample for testing. All provisions of the policy will apply as if it were the initial request for testing.
- 3.6.3. If the Town of Lucas is in need of a medical opinion to determine whether the invalid results were due to the employee's or applicant's conduct, the employee or applicant will be required to cooperate in an appropriate medical evaluation to make that determination. A failure or refusal to do so will result in discipline up to and including discharge or denial of employment to an applicant.

3.7. Prescription and Non-prescription Medications.

- 3.7.1. An employee or applicant may be asked during the testing procedure to reveal any prescription or non-prescription medications the individual has taken as such medications may be detected in the testing procedure and reported in the

test results. The employee may be required to provide information that the medication has been lawfully prescribed and taken in accordance with a prescription. This information may be used by the laboratory and MRO in analyzing the results of the test.

- 3.7.2. If an employee is taking a prescription or non-prescription medication which may impair the employee's ability to safely and adequately perform the job duties of his or her position, the employee must report such impairment to the Town of Lucas prior to performing any job duties. It is the employee's responsibility to consult with his/her treatment provider to determine the effect, if any, the use of a prescribed medication may have on that employee's ability to safely and efficiently perform the duties of his/her position.
- 3.7.3. Medications prescribed for another individual or not used according to the prescription will be considered to be illegally used and subject the employee to discipline up to and including discharge or an applicant denial of employment.

3.8. Rules Regarding Drugs and Alcohol

- 3.8.1. The Town of Lucas reserves the right to carry out reasonable searches of all individuals and their personal effects (including vehicles) on all Town of Lucas property with or without prior notice. Refusals to submit to a search or testing will result in disciplinary action, up to and including discharge.
- 3.8.2. It is prohibited to possess, sell, distribute or use on Town of Lucas premises, which includes Town of Lucas vehicles, or on Town of Lucas time, alcohol, drug paraphernalia, or any drugs or controlled substances, unless carried and used in accordance with a lawful prescription for the individual in possession.
- 3.8.3. It is prohibited for any employee on the Town of Lucas premises or on Town of Lucas time to engage in work under the influence of or impaired by any substance.
- 3.8.4. It is prohibited for any employee to be on work premises or perform work with drugs or alcohol present in their system as confirmed through a positive drug or alcohol test.
- 3.8.5. It is prohibited for any employee to engage in any distribution, negotiation, barter or agreement regarding the sale or purchase of any illegal substance on Town of Lucas premises or on Town of Lucas time. This includes, but is not limited to, any communication for this purpose via electronic device while on Town of Lucas premises or Town of Lucas time.
- 3.8.6. It is prohibited for any employee to refuse to undergo drug/alcohol testing or cooperate in any drug/alcohol testing procedures required by the Town of Lucas, or to otherwise fail or refuse to comply with requirements of the Town of Lucas 's Substance Abuse Policy.
- 3.8.7. Any employee found in violation of any of the rules in B through F above may be disciplined up to and including discharge.
- 3.8.8. Any employee convicted by a court of competent jurisdiction for the sale of or trafficking in illegal substances may be disciplined up to and including discharge. Conviction includes adjudication by plea of guilty or no contest.

4. References.

Part 382 of Title 49 of the Code of Federal Regulations