

# **TOWN OF CLAYTON FIRE DISTRICT RULES AND REGULATIONS**

## **SUBSTANCE USE POLICY**

### **POLICY STATEMENT**

The Town of Clayton Fire District recognizes drug and alcohol abuse as a modern-day problem affecting all professions. The Fire District also recognizes that many contributing factors cause certain individuals to use illegal drugs and controlled substances, abuse alcohol or abuse prescription drugs. Firefighting and emergency medical service professions are not immune from these problems. Fire District employees and members are encouraged to seek diagnosis and follow through with treatment that may be prescribed by any qualified professional in order to address the problem as early as possible.

The Fire District has the responsibility to provide the highest quality service to its taxpayers and to ensure the safety of Fire District employees and the general public it serves. Any impairment of an employee's or member's physical or mental condition, as a result of substance abuse, may affect the district's ability to meet these obligations.

In recognition of these responsibilities the Fire District has adopted the following substance abuse policy covering all employees of the Fire District and members of the Clayton and Depauville Fire Departments (collectively referred to hereafter as "member").

### **SUBSTANCE USE POLICY**

No member shall participate in any on-duty activity including without limitation any emergency, stand-by, drill, training, school of instruction or any other activity covered by the Volunteer Firefighter Benefit Law if the member is in any manner impaired by alcohol or any substance or drug whether legal or otherwise, or if the member shows or exhibits any signs or symptoms of impairment by alcohol or any substance or drug. Signs shall include without limitation impaired speech, compromised cognitive ability, the scent of alcohol or drug residue on clothes, breath or detectable to any degree or amount in the member's blood, urine or hair.

The sale, transfer, possession, distribution or manufacture of alcohol, drugs or any controlled substances, drug paraphernalia, or any combination thereof, on any premises of the Fire District or worksites including, but not limited to, Fire District owned vehicles and any private vehicles parked on Fire District premises or worksites by members is strictly prohibited.

Any member violating this Policy will be subject to appropriate disciplinary action. Disciplinary action may include, but is not limited to, loss of wages, suspension with or without pay, suspension and/or expulsion from the fire department, and/or termination from the employment of the Fire District.

The Fire District may also pursue any and all additional legal remedies at its disposal.

Any member who is required by their physician to use legal drugs, prescribed drugs, controlled substances or narcotics, which might impair the member's ability to perform their work safely shall immediately report the required use of such drugs, controlled substances

to the designated medical review officer of the Fire District. In the absence of a specific designation by the Fire District, the Fire Chief shall be the designated medical review officer.

Any member who has a good faith belief that another member is in violation of this Policy shall immediately report the violation to the Fire Chief. Any violation of this Policy occurring during an emergency call shall be immediately reported to a line fire officer or incident commander. The member shall then be immediately relieved of duty and sequestered to the side of the scene in the attendance with at least one other, designated member to assure the safety of the relieved member. The relieved member shall then be transported from the scene and tested as provided for in this Policy.

### **TESTING POLICY**

It is the policy of the Fire District to require each member to sign a substance test consent (Attachment A) and submit to testing for drugs, controlled substances, and alcohol. Failure to sign the testing consent will result in termination of employment or membership by the Fire District.

1. All new members shall be tested in connection with their required physical examination prior to being accepted into the fire department. Any candidate who refuses testing, or who tests positive as outlined in this policy shall be denied membership in the fire department.
2. Members shall be tested in connection with their physical examinations. Refusal to submit to testing or test results showing the presence of alcohol, controlled substances or drugs shall result in disciplinary action as outlined in this policy.
3. Testing shall occur when physical symptoms or conduct are found that give rise to a reasonable suspicion of impairment from alcohol, controlled substances, drugs or other substances as contained in this policy.
4. Testing shall occur in the event of an accident involving any Fire District apparatus or motor vehicle, including injury to any person regardless of severity and property damage accidents where a reasonable suspicion exists or damage in excess of \$500.00 to any one vehicle.
5. Testing shall occur when the Fire District becomes aware of information that indicates that a member is using alcohol, controlled substances, drugs or other substances in a manner that negatively impacts their ability to safely perform their duties.

### **REASONABLE SUSPICION TESTING**

When a line officer and a safety officer both have a reasonable suspicion that alcohol, drugs, and/or controlled substances are impairing a member's behavior and/or performance, the member shall then be immediately relieved of duty and sequestered to the side of the scene in the attendance with at least one other, designated member to assure the safety of the relieved member. The relieved member shall then be transported from the scene and tested as provided for in this Policy. If the member should refuse the order to leave, then the member shall be ordered to immediately submit to a controlled substance, drug, and/or alcohol test. Failure to submit to the test shall result in an immediate 60-day suspension. Any member who has previously been asked to leave a scene due to suspicion of drug or alcohol impairment and is subsequently suspected of being impaired by drugs or alcohol shall be required to submit to testing as outlined in this policy.

The Fire District will provide training for all line officers and safety officers consistent with this policy.

Reasonable suspicion to believe that alcohol, drugs or controlled substances are impairing the member's behavior or impairing their performance shall be the only basis upon which testing may be initiated, except as otherwise provided for in this policy. The line officer and safety officer must both personally observe behavior by the member and/or the member's appearance, behavior, speech, breath odor, or other indications as provided for in 49 CFR 382.307, before being ordered to submit to a drug and/or alcohol test. The line officer and safety officer shall prepare and submit separate written reports detailing the circumstances leading to the decision to order a drug and/or alcohol test, which shall be delivered to the Fire Chief. A copy shall also be delivered to the secretary of the Fire District. Reasonable suspicion testing may also be performed if Fire District personnel become aware of information indicating that the member is routinely or habitually using alcohol, controlled substances, and/or drugs and that use is impacting their ability to safely perform their duties as a member.

When it is determined that reasonable suspicion exists and testing is ordered, the member must submit a sample at the required time and place, must cooperate with the collection of the sample, and must cooperate in the administration of the test and/or sign any document required for the testing. Any failure by the member to cooperate in the administration of the testing shall be considered insubordinate and shall result in disciplinary procedures, including but not limited to suspension and/or dismissal.

### **TESTING PROCEDURES**

Drug testing for marihuana, cocaine, opiates, amphetamines and PCP will be performed on urine, blood or hair specimens. Alcohol testing will be performed by means of breath testing devices approved by the National Highway Traffic Safety Administration (NHTSA). Testing procedures will comply with Federal Motor Carrier regulations 49 CFR Part 40.

Individual test reports will be maintained in each member's file.

### **PROCEDURES FOR TESTS**

Drug testing will be done by means of urine, blood or hair collection and analysis. For urine testing, the specimen will be collected by trained personnel in accordance with DOT regulations. The specimen will be divided into 2 separate containers (the primary sample and the split sample) and sealed in a tamper-evident container and shipped to a Substance Abuse and Mental Health Services Administration (SAMHSA) – certified lab for testing. Laboratory results will be reported to the Fire District's medical review officer (MRO). Before reporting a positive test to the Fire District, the MRO will make a reasonable attempt to contact the member to discuss the test results. If no legitimate explanation for the positive test other than the use of alcohol, a controlled substance or drug exists, the MRO will report the test as positive. A test showing the presence of a medication which the member has used in accordance with a valid prescription and notice requirements hereof will be considered a negative test.

In the event of a positive test, the member has the right to request that a split sample be sent to a different certified lab for testing. This request must be made within 72 hours of the

time the member was informed of the results by the MRO. The cost of the split performed will be at the member's expense.

## **PROCEDURES FOR ALCOHOL TESTS**

Certified breath alcohol technicians will perform these tests using evidential breath testing devices. If the test shows a result less than 0.01, the test is considered negative. If the alcohol concentration is 0.01 or greater, a confirmation test must be conducted. The confirmation test will be performed fifteen minutes after the initial test and the results of this test determine what actions will be taken.

## **DISCIPLINARY ACTION**

If testing indicates an alcohol level of or in excess of .01 of one per centum by weight of alcohol and the member has received no previous warnings or suspension under this policy, the member shall be given a warning and may return to active duty, but in no event less than 48 hours after testing at or in excess of such level. A member may be suspended up to thirty (30) days in the following situations:

1. Test showing alcohol impairment (blood alcohol level of .01 or greater) or consuming alcohol while on duty.
2. Positive test for controlled substances, illegal drugs or for prescribed drugs used in a manner or for a purpose other than that lawfully prescribed.
3. Blood alcohol level of .01 or greater after previous warnings.

A member may be suspended up to sixty (60) days in the following situations:

1. Second positive test for alcohol, controlled substances, illegal drugs or for prescribed drugs used in a manner or for a purpose other than that lawfully prescribed within two (2) years of first positive test.
2. Refusal to provide a specimen for testing.

A member shall be terminated in the following situations:

1. Third positive test for alcohol, controlled substances, illegal drugs or for prescribed drugs used in a manner or for a purpose other than that lawfully prescribed within two (2) years of second offense.
2. Second refusal to provide specimen for testing.

All suspensions under this policy shall be calculated from the date that testing was ordered. After 48 hours from the initial testing where the member has received no previous warnings or suspension under this policy, or after two weeks prior to the end of a suspension period under this policy, the member shall submit to a drug and alcohol test, following the "Testing Procedures" above. If the results show no indication of controlled substances, drugs, and/or alcohol, the member may return to active duty. If the results are positive for any indication of controlled substances, drugs and/or alcohol, membership or employment, as the case may be, shall be terminated immediately.

A member who is terminated under the provisions of this policy may reapply for membership one year after termination, subject to all of the terms and conditions of this policy.

**ATTACHMENT A**  
**Substance Test Consent**

I hereby acknowledge receipt of the \*1 Fire District Substance Use Policy which contains material on drug and alcohol testing.

I understand the safety regulations and procedures regarding the testing of drug and alcohol and I agree to follow the Fire District policy and submit to drug and alcohol testing as a condition of my membership or employment, as the case may be.

Name (print): \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_