

**FORSYTH COUNTY APPLICANT AND
EMPLOYEE DRUG TESTING POLICY (Revised 8/05)**

Section 100 Purpose

The purpose of this policy is to promote and maintain a drug free environment in the workplace and to protect employees and the public by ensuring that County employees are fit to perform their assigned duties. The following topics are addressed in this document:

- Section 101** Definitions
- Section 102** Drugs to be Tested
- Section 103** Applicant Testing
- Section 104** Current Employee Testing
- Section 105** Information About the Test
- Section 106** Consequences of a Positive Drug Test
- Section 107** Mandatory Employee Assistance Program
- Section 108** Use of Results in Criminal Action
- Section 109** Notification of Conviction
- Section 110** Nondisciplinary Suspension
- Section 111** Additional Standards: Law Enforcement Personnel
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- Section 113** Communication and Training
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Section 101 Definitions

101.1 “Applicant” means any person who applies to become an employee of Forsyth County.

101.2 “Approved laboratory” means a laboratory certified to perform drug screening or testing by the National Institute on Drug Abuse (NIDA).

101.3 “Employee” means, for the purpose of this policy, any person whose position is included in the Forsyth County Classification Plan or any person receiving salary payments based on the Forsyth County Pay Plan. This definition does not include elected officials or elective positions.

101.4 “Employee Assistance Program” means the program of services provided to County employees through agreement with an Employee Assistance Program (EAP) provider. These services include assessment, evaluation, counseling and referral for treatment and follow up procedures.

101.5 “Reasonable Suspicion” means a belief, based on specific objective facts and rational inferences drawn from those facts that an employee has consumed, is under the

influence of, or is impaired by drugs while at work. Circumstances which constitute a basis for determining reasonable suspicion may include, but are not limited to:

- A. Observable occurrences, such as direct observation of drug use and/or the physical symptoms of being under the influence of a drug.
- B. A report of drug use, by an employee while at work, provided by a reliable and credible source.
- C. A pattern of unexplained preventable accidents and/or information based on specific objective facts that an employee has caused, or contributed to an accident at work while under the influence of drugs.
- D. Evidence that an employee is involved in the unauthorized possession, sale, solicitation or transfer of drugs while working or while on the County's premises or operating or in possession of a County vehicle.

Section 102 Drugs to be Tested

102.1 When drug screening is required under the provisions of this policy, a urinalysis test will be conducted to detect the presence of the following drugs:

- A. Amphetamines
- B. Barbiturates
- C. Cocaine
- D. Methaqualine
- E. Opiates
- F. Phencyclidine (PCP)
- G. THC (Marijuana)
- H. Benzodiazepines
- I. Propoxyphene
- J. All other combinations in accordance with state and federal law.

102.2 The content level of each substance needed to determine whether an employee has consumed or is under the influence of a drug as listed above will be determined by a certified toxicologist of the approved laboratory.

102.3 Any employee found to have abused prescription drugs will be subject to the terms and conditions of this policy.

Section 103 Applicant Testing

103.1 All applicants for employment with Forsyth County are subject to the testing provisions of this policy.

103.2 All applicants for employment with Forsyth County will be provided with written notification of this drug testing policy. The notice shall include the following information:

- A. The reason for drug testing.
- B. The circumstances under which testing may be required.
- C. The procedure for confirming an initial positive drug test result.
- D. The consequences of a positive drug test result.
- E. The consequences of refusing to undergo a drug test.

103.3 Applicants will be asked to sign a consent form authorizing a drug test and permitting release of the test results to County officials with a need to know.

103.4 A job applicant who refuses to consent to a drug test will be denied employment with Forsyth County.

103.5 The Human Resources Director may waive drug testing in cases of temporary employment or part-time employment.

Section 104 Current Employee Testing

104.1 A department head who has reasonable suspicion (defined in section 101) that an employee in his/her department is using or under the influence of drugs is authorized to schedule a drug test and require the employee to cooperate fully with testing personnel.

104.2 Before a drug test is administered, the department head shall ask the employee to sign a consent form authorizing the test and permitting release of test results to County officials with a need to know. The consent form shall also set forth the following information:

- A. The procedure for confirming an initial positive test result.
- B. The consequences of a positive test result.
- C. The right of an employee to explain a positive drug test result and the appeal procedures available.
- D. The consequences of refusing to undergo a drug test.

104.3 An employee who refuses to consent to a drug test, when reasonable suspicion of drug use has been identified and documented, will be recommended for and is subject to dismissal.

104.4 An employee requesting delay(s) of a drug test scheduled under the provisions of paragraph 104.1, or failing to appear for the test, will be considered to have refused to consent to a drug test and become subject to the provisions of paragraph 104.3 above.

Section 105 The Test

105.1 Normally, a urine test will be used to determine the presence of drugs. Guidance and instructions in administering the drug tests will be provided by an approved laboratory to ensure that proper steps are followed in collecting and evaluating samples. A strict chain of custody will be maintained by all personnel involved with the sample collection, transporting and testing. The results will be forwarded to the Human Resources Department.

105.2 If a test result is positive, the employee or applicant and the department head will be notified in writing by the Human Resources Director of the test result. The letter of notification shall identify the particular substance found.

Section 106 Consequences of a Positive Drug Test Result

106.1 An applicant shall be denied employment with Forsyth County if his/her drug test result is positive. Such an applicant may be considered for future employment upon submission of documentation satisfactory to the Human Resources Director showing successful completion of a drug rehabilitation program.

106.2 Except as otherwise provided in sections 111 and 112 of this policy, an employee who has a positive drug test result will be subject to disciplinary action up to and including dismissal. The employee may appeal to the appointing authority to request continued employment and for assistance under the Employee Assistance Program. When making recommendations for disciplinary action, supervisors and department heads should consider factors which include the employee's (1) work history; (2) job assignment; (3) length of employment; (4) current job performance; and (5) past disciplinary actions.

106.3 An employee who voluntarily, without reasonable suspicion by a supervisor, identifies him/herself as a drug user to their supervisor is subject to the same provisions as outlined in 106.2 above.

106.4 An employee permitted to continue employment and receive assistance under the Employee Assistance Program, will be required to utilize approved accrued sick leave, annual leave, compensatory leave, or leave without pay for all time away from work.

Section 107 Mandatory Employee Assistance Program (EAP)

107.1 An employee permitted to continue employment and receive assistance under the Employee Assistance Program will be required to cooperate fully with the provisions of the recommended rehabilitation program.

107.2 Employees referred to the EAP for participation in a drug rehabilitation program, who fail to enter or successfully complete the program, will be recommended for dismissal.

107.3 Disciplinary action is not automatically suspended by an employee's participation in the EAP. Disciplinary action may be taken against an employee for performance issues or inappropriate conduct.

107.4 Those employees participating in an EAP-approved drug rehabilitation program will be subject to unannounced drug tests in accordance with the aforementioned procedures. Upon a positive drug test result, the employee will be recommended for dismissal.

107.5 Those employees satisfactorily completing a drug rehabilitation program recommended or approved by the EAP staff, will be subject to unannounced tests for two years after completion of the program. The minimum amount will be 6 tests in the first year after a positive test. Upon a positive drug test result, the employee will be recommended for dismissal.

107.6 Nothing in this section is intended to alter the confidential nature of the EAP for employees who voluntarily identify themselves as drug users and individually request assistance from EAP staff.

Section 108 Use of Results in Criminal Action

No test results of the County's drug testing program may be used as evidence in a criminal action against the employee or job applicant except by order of a court of competent jurisdiction.

Section 109 Notification of Conviction

As a condition for continued employment, each County employee shall notify their supervisor of his/her conviction of any criminal drug statute for a violation occurring in the workplace no later than five (5) days after such conviction.

Section 110 Nondisciplinary Suspension

During the investigation, hearing or trial of any employee for a drug related offense off the job, when suspension would be in the best interests of the County, the County Manager may suspend the employee without pay for the duration of the proceedings as a nondisciplinary measure as provided in the Forsyth County Code, Section 16-81.

Section 111 Additional Standards: Law Enforcement Personnel

All applicants for and all employees in positions subject to the provisions of the North Carolina Criminal Justice Education and Training Standards Commission, will be subject to the drug testing policies and procedures of the Commission.

Section 112 Other Additional Standards

All applicants for employment and all employees in positions subject to the provisions of other duly constituted and recognized agencies and licensing boards, will be subject to the drug testing policies and procedures of such agencies and licensing boards in addition to those outlined herein.

Section 113 Communication and Training

The Human Resources Department shall coordinate drug free awareness training which will include communication of the contents of this testing policy. The drug free awareness training syllabus will also include:

- A. The dangers of drug abuse in the workplace.
- B. Forsyth County's policy of maintaining a drug free workplace.
- C. Information concerning the Employee Assistance Program and the available drug counseling and rehabilitation available through that program.
- D. The penalties that may be imposed upon an employee for a drug abuse violation occurring in the workplace.

Section 114 Requirements for Employees with a Commercial Driver's License

114.1 Overview: Employees who are required to have a Commercial Driver's License (CDL) to drive a vehicle over 26,001 pounds or that is designed to carry 16 or more passengers must comply with the Omnibus Transportation Employee Testing Act of 1991 and any successors, the purpose of which is to help prevent accidents and injuries resulting from the misuse of alcohol and controlled substances by drivers of commercial motor vehicles. (Also see Forsyth County's Alcohol Policy.)

114.2 Drugs to be Tested: Employees required to have a CDL will be tested for the drugs as required by the Department of Transportation.

114.3 Split Sample: A split specimen procedure will be used so the employee or applicant has an opportunity to have a second test administered at another certified NIDA laboratory at their own expense. A request for a second test must be made by the

employee or applicant within 72 hours of being notified of their positive drug test result.

114.4 Medical Review Officer: Test results will be sent directly to the County's Medical Review Officer. The Medical Review Officer will contact each employee or applicant who has a positive test result to discuss that result.

114.5 Random Drug Testing: Employees are subject to random drug testing throughout the year as directed by the Department of Transportation. An employee who is directed to take a random drug test must proceed immediately to the test site.

114.6 Reasonable Suspicion Testing: See section 104 for details.

114.7 Post-accident Testing: Employees are required to be tested for drugs if they are driving a county vehicle that requires a CDL and have an accident in which one or more of the following occurs: (1) the accident involves a fatality; (2) the employee is cited for a moving violation and one of the vehicles had to be towed; or (3) the employee is cited for a moving violation and at least one person required treatment away from the scene of the accident. The employee is required to remain available for testing until the test has occurred. The test should be administered whenever possible within the first 8 hours but not to exceed 32 hours after the accident. An employee who does not remain available for testing will be treated as someone who has refused a test. (See 104.3)

114.8 Follow-up Testing: An employee who has failed a drug test and has been allowed to go through rehabilitation must attend the Employee Assistance Program (See section 107). The substance abuse professionals will determine what rehabilitation is necessary. A person who achieves negative test results may be allowed to continue to work while being rehabilitated.

114.9 Consequences of a Positive Drug Test Result: The consequences will be the same as those in section 106 of this policy.

114.10 Consequences of Refusing a Drug Test: For reasonable suspicion testing, the consequences will be the same as 104.3 in this policy. For random testing, post-accident (which includes remaining available for the test) and follow-up testing, the employee who refuses to be tested can no longer perform all the functions of their job and therefore must be recommended for dismissal. If they do any work for the County while the hiring authority is making their determination, their assignments must not include duties that require a CDL or any duties that could endanger the employee or others.

114.11 Pre-employment: Before being hired into a position requiring a CDL, candidates will be required to sign a release that permits previous employers for the

time period directed by the Department of Transportation to disclose the results of previous drug tests, rehabilitation and any refusals to be tested.