

# **FORSYTH COUNTY ALCOHOL POLICY**

(Revised 8/05)

## **Section 100. Purpose**

The purpose of this policy is to promote and maintain an environment in the workplace that is free from the negative aspects of alcohol and to protect employees and the public by ensuring that County employees are capable of performing their assigned duties. Consistent with this purpose, Forsyth County is interested in providing appropriate assistance to employees who are experiencing alcohol related problems. The following topics are addressed in this document:

- Section 101** Definitions
- Section 102** Alcohol Level
- Section 103** Employee Testing
- Section 104** Information about the Test
- Section 105** Consequences of a Positive Alcohol Test Result
- Section 106** Mandatory Employee Assistance Program (EAP)
- Section 107** Use of Results in Criminal Action
- Section 108** Notification of Loss of License
- Section 109** Notification of Conviction
- Section 110** Additional Standards
- Section 111** Communication and Training
- Section 112** Requirements for Employees with a Commercial Driver's License

## **Section 101. Definitions**

**101.1 “Approved Laboratory”** means a laboratory certified to perform alcohol screening or testing by the National Institute on Drug Abuse (NIDA).

**101.2 “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.

**101.3 “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.

**101.4 “Influence”** means the same as “impairment”.

**101.2 “Reasonable Suspicion”** means a belief based on specific objective facts and rational inferences drawn from those facts that an employee has consumed or is under the influence of or impaired by alcohol while at work. Circumstances which constitute a basis for determining "reasonable suspicion" may include, but are not limited to:

- A. Observable occurrences, such as:
  - 1. Direct observation of the consumption of alcohol.
  - 2. The employee's walking and balance is unsteady or uncharacteristic of their usual posture.
  - 3. The employee's eyes are bloodshot, extremely teary, or glassy looking.
  - 4. The employee's speech is unusually slurred or stammering.
  - 5. The odor of alcohol is on the employee's breath and/or person.
- B. A report of the consumption of alcohol, 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 alcohol.

## **Section 102 Alcohol Level**

**102.1** If an employee has a breathalyzer result of .02 or more of alcohol, it will be considered a positive alcohol test.

**102.2** As a general rule, the amount of time required to completely eliminate alcohol from the bloodstream is two hours for a 12 ounce can of beer, three ounces of wine, or 1 ounce of spirits. However, this is only an average. The time required to eliminate the alcohol varies with a persons weight, their metabolism, the kind and proof of alcohol consumed, etc. Employees must take care to ensure that alcohol is not ingested immediately prior to or during working hours, and that adequate time is available to process the alcohol consumed.

## **Section 103 Employee Testing**

**103.1** A department head who has reasonable suspicion (defined in 101.2) that an employee has consumed, is under the influence of or is impaired by alcohol while at work is authorized to have the employee taken to one of the test sites of the County's contracting laboratory and require the employee to cooperate fully with testing personnel.

**103.2** Employees will be taken to the test site and then home for the rest of the day.

**103.3** Before an alcohol test is administered, the department head will ask the employee to sign a consent form (available from the Human Resources Department) authorizing the test and permitting the release of test results to Forsyth County officials who have 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 alcohol test result.
- D. The consequences of refusing to undergo an alcohol test.

**103.4** The Human Resources Department will provide necessary laboratory test forms and employee consent forms to each department. Departments will also be provided with the location of the laboratory location(s) and any special procedures that apply after normal office hours (Monday through Friday, 8:00 A.M. to 5:00 P.M.).

**103.5** An employee who refuses to consent to an alcohol test, when reasonable suspicion of alcohol use has been identified, may be recommended for, and is subject to dismissal. In case of refusal, the department head or supervisor will recommend to the appointing authority that the employee be suspended without pay immediately. If the employee is suspended, transportation from the workplace to the employee's home will be provided to the employee. If the employee refuses transportation and insists on driving, law enforcement officials will be notified.

**103.6** An employee requesting delay(s) in an alcohol test, or failing to appear for the test will be considered to have refused to consent to a test and become subject to the provisions of paragraph 103.5 above.

**103.7** Nothing in this policy will prevent appropriate officials from requiring testing for the use of illegal drugs in accordance with the Forsyth County Applicant and Employee Drug Testing Policy.

#### **Section 104 The Test**

**104.1** An evidential breath-testing (EBT) device will be used to determine the presence of alcohol in the employee's system. A urine or blood alcohol test may be substituted when needed. The results will be forwarded to the Human Resources Department.

**104.2** If a test is positive (.02 or more), the employee and the employee's department head will be notified in writing by the Human Resources Director of the test result.

#### **Section 105 Consequences of a Positive Alcohol Test Result**

**105.1** Except as otherwise provided in section 109 of this policy, an employee who has a positive alcohol test result will be referred to the Employee Assistance Program by their supervisor or department head. Continued employment will be contingent upon the employee's full cooperation with the appropriate alcohol treatment personnel and upon successful completion of the treatment program as determined by the Employee Assistance Program Personnel.

**105.2** An employee who voluntarily, without reasonable suspicion of a supervisor, identifies him/herself as an alcohol abuser to their supervisor is subject to the same provisions as outlined in section 106.

**105.3** An employee receiving assistance under the Employee Assistance Program, will be required to utilize accrued sick leave, annual leave, compensatory leave, or leave without pay for all time away from work.

## **Section 106 Mandatory Employee Assistance Program (EAP)**

**106.1** Employees referred to the EAP for participation in an alcohol rehabilitation program, who fail to enter or successfully complete the program, will be recommended for dismissal.

**106.2** 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.

**106.3** Employees who have successfully completed an alcohol rehabilitation program will be subject to unannounced tests for two years after documented completion of the program. A subsequent positive test result will be grounds for immediate dismissal.

**106.4** Nothing in this section is intended to alter the confidential nature of the EAP for employees who voluntarily identify themselves as alcohol abusers and individually request assistance from EAP staff.

## **Section 107 Use of Results in Criminal Action**

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

## **Section 108 Notification of Loss of License**

All employees who drive a County vehicle must notify their supervisor when their driving privileges are suspended. An employee who drives a County vehicle without a valid N.C. driver's license will be recommended for termination.

## **Section 109 Notification of Conviction**

As a condition for continued employment, each County employee shall notify their supervisor of his/her conviction of any alcohol related offense no later than five (5) days after such conviction. The employee will be prohibited from operating a County motor vehicle until such time as he/she has in their possession a valid, unrestricted N.C. driver's license. Loss of a license could result in termination.

## **Section 110 Additional Standards**

Notwithstanding the County's interest in providing assistance to employees with alcohol related problems, employees are not absolved from responsibility for their conduct. There may be circumstances where the misconduct of an employee under the influence of alcohol is so detrimental that it is in the best interest of the County that his/her employment be terminated. The County Manager and other appointing authorities retain

their responsibility and authority with respect to disciplinary action up to and including dismissal.

## **Section 111 Communication and Training**

Information about the policy is in the employee handbook and will be discussed in the new employee orientation sessions.

## **Section 112 Requirements for Employees with Commercial Driver's License**

**112.1 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 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 Applicant and Employee Drug Testing Policy.) Employees are prohibited from using alcohol within four hours of any activity requiring a CDL.

**112.2 Random Alcohol Testing:** Employees are subject to random testing throughout the year as directed by the Department of Transportation. These tests will be performed just prior to, during or immediately after performing the activity that requires the CDL. An employee who is notified about a random test must proceed immediately to the testing site.

**112.3 Reasonable Suspicion Testing:** See section 101.2 for details.

**112.4 Post-accident Testing:** Employees are required to be tested for alcohol 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 and to refrain from any intake of alcohol for 8 hours or until the test has occurred. The test should be administered whenever possible within 2 hours but not to exceed 8 hours. An employee who does not remain available for testing will be treated as someone who has refused a test. (See 112.7)

**112.5 Follow-up Testing:** An employee who fails an alcohol test (.02 or greater) must attend the Employee Assistance Program (See section 106). The substance abuse professional will determine what if any rehabilitation is necessary. A person who achieves negative test results may be allowed to continue to work while being rehabilitated. The substance abuse professional will determine whether or not the employee is complying with recommended treatment and the need for follow-up testing. The minimum amount will be six tests in the first year after a positive test. The maximum duration of follow-up tests will be two years.

**112.6 Consequences of a Positive Alcohol Test Result:** The consequences will be the same as those in section 105 of this policy.

**112.7 Consequences of Refusing an Alcohol Test:** For reasonable suspicion testing the consequences will be the same as 103.5 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 work must not include duties that require a CDL or any duties that could endanger the employee or others.

**112.8 Pre-employment:** Before being hired, 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 alcohol tests, rehabilitation and any refusals to be tested.