

CHAPTER 22: DRUG FREE WORKPLACE POLICY

22-1. Purpose and Expectation

The Village of Royal Palm Beach recognizes that employees are not immune from the problems which face society in general. The problems of alcohol and substance abuse have become widespread throughout our community and nation. As part of a commitment to safeguard employees' health, to provide a safe environment for employees to work, and to promote a drug-free community, the Village has established this policy dealing with the problems of alcohol and substance abuse. The purpose of this policy is to prevent alcohol and drug abuse in the workplace, while also recognizing the rights of employees to privacy and protection from searches of any kind which are inherently intrusive, and which should not be undertaken except for real problem situations. In addition, the purpose of this policy is to provide for confidentiality, fairness and accuracy of drug testing and testing results.

A requirement of employment is that a person is free from drug dependence, illegal drug activity, or drug or alcohol abuse. It is a condition of employment for an employee to refrain from reporting to work or working with the presence of drugs or alcohol in or on his/her body. These prohibitions also apply to the misuse or abuse of prescription and over the counter drugs. If the use of controlled substances, narcotics, or other mind-altering substances is found on Village property, or suspected on Village property, or if an employee is selling or purchasing illegal drugs, even if they are not using them while at work or on Village property, the proper law enforcement officials may be notified immediately.

22-2. No Legal Duty To Test

All drug testing conducted by the Village of Royal Palm Beach shall be in conformity with the standards established in this policy and all applicable rules promulgated pursuant to this policy. However, the Village of Royal Palm Beach shall not have a legal duty under this policy to request an employee to undergo drug testing.

22-3. Definitions

For the purpose of this policy, the following definitions apply:

1. "Alcohol" means any beverages, mixture, or preparation containing ethyl alcohol, which includes but is not limited to distilled spirits, wine, malt beverages and intoxicating liquors.
2. "Chain of Custody" refers to the methodology of tracking specified materials or substances for the purpose of maintaining control and accountability from initial collection to final disposition for all such materials or substances and providing for accountability at each stage in handling, testing, storing and reporting of test results.
3. "Collection Site" means a place where employees present themselves for the purpose of providing a specimen to be analyzed for the presence of drugs.
4. "Collection Site Person" means a person provided by an approved laboratory who instructs and assists employees at a collection site and who receives and makes an initial examination of the specimen provided by those employees.

5. "Confirmation test," "confirmed test," or "confirmed drug test" means a second analytical procedure run on a sample that was positive on the initial screening test. The second analytical procedure must be used to identify the presence of a specific drug or metabolite in a specimen. The confirmation test must be different in scientific principle from that of the initial test procedure. The confirmation method must be capable of providing requisite specificity, sensitivity and quantitative accuracy. The confirmation test for alcohol will be gas chromatography and the confirmation test for all other drugs will be gas chromatography/mass spectrometry.
6. "Donor" means the individual employee or job applicant being drug tested.
7. "Drug" means alcohol, including distilled spirits, wine, malt beverages, or an intoxicating liquor; an amphetamine; a cannabinoid; cocaine; phencyclidine (PCP); a hallucinogen; methaqualone; an opiate, a barbiturate; a benzodiazepine; a synthetic narcotic; a designer drug; or a metabolite of any substances listed in this paragraph. The Village may test an individual for any or all of such drugs.
8. "Drug test" or "test" means any chemical, biological or physical instrumental analysis in conformity with this policy, administered for the purpose of determining the presence or absence of a drug or its metabolites.
9. "Employee" means any bargaining unit member who works for salary, wages, or other remuneration for the Village of Royal Palm Beach.
10. "Employee assistance program" means an established program for employee assessment, counseling, and referral to an alcohol and drug rehabilitation program.
11. "Employer" means the Village of Royal Palm Beach who employs bargaining unit members for salary, wages, or other remuneration.
12. "GC/MS" means gas chromatography/mass spectrometry.
13. "Initial drug test" 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.
14. "Job applicant" means a person who has applied for a position with an employer and has been offered employment conditioned upon successfully passing a drug test, and may have begun work pending the results of the drug test. For a public employer, "job applicant" means only a person who has applied for a special-risk or safety-sensitive position.
15. "Laboratory" means a facility licensed and certified under law by the Agency for Health Care Administration using criteria established by the United States Department of Health and Human Services.
16. "Medical Review Officer" or "MRO" means a licensed physician, employed with or contracted with by the Village of Royal Palm Beach, who is responsible for receiving and reviewing all confirmation results for the laboratory. The MRO is responsible for contacting all positively tested individuals to inquire about possible prescriptive or over-the-counter medications, which could have caused a positive test result. The MRO must have knowledge of substance abuse disorders, laboratory testing procedures, and chain of custody collection procedures. The MRO must also have the appropriate medical training to interpret and evaluate a positive test result with prescriptive or other relevant medical information.
17. "Nonprescription controlled substance" means amphetamines; cannabinoids; cocaine; phencyclidine (PCP); or opiates obtained without a prescription.
18. "Nonprescription medication" means a medication that is authorized pursuant to state or federal law for general distribution and use without a prescription in the treatment of human disease, ailments or injuries.

19. "Prescription medication" means a drug or medication obtained pursuant to a prescription as defined by Section 893.02, Florida Statutes.
20. "Reasonable suspicion drug testing" is defined as drug testing based on a belief that an employee is using or has used drugs in violation of the Village'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:
 - a. 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.
 - b. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
 - c. Evidence that an individual has tampered with a drug test during his employment with the current employer.
 - d. Evidence that an employee has used, possessed, sold or solicited, dispensed, distributed or transferred drugs while working or while on the Village's premises, or while operating the Village's vehicle, machinery or equipment.
 - e. Information that an employee has caused, or contributed to, an accident while at work.
 - f. A report of drug use, provided by a reliable and credible source, which has been independently corroborated.
21. "Safety sensitive position" means with respect to a public employer, a position in which a drug impairment constitutes an immediate and direct threat to public health or safety, such as a position that requires the employee to carry a firearm, perform life threatening procedures, work with confidential information or documents pertaining to criminal investigations, or work with controlled substances; a position subject to Section 110.1127, Florida Statutes; or a position in which a momentary lapse in attention could result in injury or death to another person.
22. "Special risk" means employees who are required as a condition of their employment to be certified under Chapter 633, Florida Statutes, or Chapter 943, Florida Statutes.
23. "Specimen" means a tissue or product of the human body capable of revealing the presence of alcohol and/or drugs or their metabolites. Unless circumstances necessitate otherwise, urine will be the specimen collected for the testing of all drugs except alcohol, and blood will be the specimen collected for the testing of alcohol.
24. "Threshold detection level" means the level at which the presence of a drug or alcohol can be reasonably expected to be detected by an initial and a confirmatory test performed by a laboratory that meets standards established herein. The threshold detection level indicates the level at which a valid conclusion can be drawn that the drug or alcohol is present in the employee's sample.

22-4. Authority To Test, Types of Tests, Refusal To Test

- A. Authority to Test - The Village of Royal Palm Beach has the authority to require employees to submit to testing for the presence of alcohol or drugs only as specifically as set forth in this drug-testing policy.
- B. Types of Tests - The Village of Royal Palm Beach may conduct the following types of drug tests in order to maintain a drug-free workplace program:
 1. Job Applicant Drug Testing - The Village requires all job applicants to submit to a drug test and may use a refusal to submit to a drug test or a positive confirmed drug test as a basis for refusing to hire a job applicant.

2. Reasonable Suspicion Testing - The Village may require an employee to submit to reasonable suspicion drug testing. Reasonable suspicion drug testing shall not be required except upon the written recommendation of a supervisor who is at least one level of supervision higher than the immediate supervisor of the employee in question. Furthermore, the supervisor's recommendation as to reasonable suspicion must be reviewed and agreed upon in writing by the Village Manager or his designee. This written recommendation shall include the circumstances which formed the basis of the determination that reasonable suspicion existed to warrant testing. Please see the Village's definition of 'Reasonable suspicion drug testing' as outlined in Section 22-3, above, for more information.

3. Random Testing - The Village has established employment classifications such as safety sensitive, or those requiring a CDL, which may be subject to random drug testing.

i. All employees working in a position covered by this policy are subject to unannounced testing based on random selection. This includes temporary employees performing work in a covered position.

ii. All persons will be subject to be randomly picked for drug testing at each random testing date. A person may be randomly picked more than once or not picked at all during the annual period.

iii. To assure that the selection process is random all employees covered by this policy will be placed in a common pool.

iv. The selection procedure will select sufficient additional names to be used to reach the appropriate testing level during each test period. These alternate names will be tested in order of selection only if persons selected are unavailable for testing due to vacations, medical leave or travel requirements. The random selection will be performed by the Medical Review Officer (MRO).

4. Follow-Up Testing - If the employee in the course of employment enters an employee assistance program for drug-related problems, or an alcohol and drug rehabilitation program, the Village, at its option, may require the employee to submit to follow-up testing. If follow-up testing is required, it will 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 will not be given to the employee to be tested.

5. Routine Fitness for Duty Testing - An employee may be asked to submit to a drug test as part of a routinely scheduled fitness for duty medical examination that is either part of the Village's established policy or that is scheduled routinely for all members of an employment classification or group.

C. Refusal to Test - If an employee refuses to submit to a test for drugs and alcohol, he/she may be disciplined up to and including termination for such refusal.

22-5. Notice To Employees

The Village of Royal Palm Beach includes a notice of drug testing on all vacancy announcements for those positions where drug testing is required. A notice of this policy is posted in appropriate and conspicuous locations on the Village's premises, and copies of the policy are available for inspection during regular business hours by the general public in the Village of Royal Palm Beach Human Resources Department.

Employees are prohibited from possessing controlled substances, narcotics, or alcohol on their person, in their lockers, desks, or vehicles, while on Village property, while operating or riding in Village vehicles away from Village property, or while otherwise performing Village duties away from the Village. With reasonable suspicion, the desks, lockers, cabinets, drawers, and vehicles used by employees are Village property, and may be searched. If an employee places a personal lock on a locker, desk, cabinet, or other storage area, upon reasonable suspicion, the Village may require the employee to remove such lock upon request and permit a search by management. Employees who have a desk, locker or any other type of work area on Village Property are to have no expectation of privacy.

22-6. Collection Procedures, Choice of Specimen, Cost of Testing

- A. An employee injured at the workplace who requires medical attention will be tested, in accordance with this policy, and shall be taken to a medical facility for immediate treatment of injury. If the injured employee is not at a designated collection site, the employee will be transported to one as soon as it is medically feasible where specimens shall be obtained. If it is not medically feasible to move the injured employee, specimens shall be obtained at the treating facility under the procedures set forth in this policy and transported to an approved testing laboratory.
- B. No specimens shall be taken prior to the administration of emergency medical care. Once this condition has been satisfied, the Village of Royal Palm Beach may obtain results of any tests conducted on a specimen for the presence of alcohol or drugs only as is specifically provided for in this policy.
- C. The Village of Royal Palm Beach may test for any or all of the following drugs: alcohol, including distilled spirits, wine, malt beverages and intoxicating liquors, amphetamines, cannabinoids, cocaine, phencyclidine (PCP), hallucinogens, methadone, methaqualone, opiates, barbiturates, benzodiazepines, propoxphene, synthetic narcotics, a designer drug or a metabolite of any of the substances listed in this paragraph.
- D. Body specimens – Urine will be used for the initial test for all drugs, and for the confirmation of all drugs, except alcohol. Blood will be used as the initial and confirmation test for alcohol. Nothing in this section shall be construed to limit the discretion of a physician to determine whether drawing a blood sample will threaten the health of the employee, or if the employee has a medical condition unrelated to the accident which may preclude the drawing of the necessary quantity of blood for a testing specimen. No inference or presumption of intoxication or impairment may be made in a case where a physician prevents a specimen extraction based on his or her medical expertise.

- E. Cost of testing – The Village of Royal Palm Beach shall pay the cost of all drug tests which it requires of employees. An employee shall pay the cost of any additional drug tests not required by the Village.
- F. Collection site – The Village of Royal Palm Beach shall utilize a collection site designated by an approved laboratory which has all necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, chain of custody procedures, temporary storage and shipping or transportation of urine and blood specimens to the approved drug testing laboratory.
- G. Security of the collection site, chain of custody procedures, privacy of the individual, collection control, integrity and identity of the specimen, and transportation of the specimen, and transportation of the specimen to the laboratory shall be in accordance with Chapter 59A-24.005, Florida Administrative Code. The attached Chain of Custody Form will be used for each employee tested.
- H. Collection site personnel - A specimen for a drug test may be taken or collected by any of the following persons:
 - 1. Physician, a physician's 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.
 - 2. Qualified person employed by a licensed or certified laboratory, as described in Florida Statutes 440.102(9).
- I. Prior to any collection of a specimen, the drug testing facility shall provide a form for the employee concerning Chain of Custody and a Consent and Release form. Refusal to execute Chain of Custody and/or Consent and Release forms shall be treated as a refusal to be tested.

22-7. Laboratory Procedures

- A. No laboratory may analyze initial or confirm drug specimens unless the laboratory is licensed by the Department of Health and Rehabilitative Services and is capable of performing such tests in accordance with Section 112.0455, Florida Statutes, and its attendant rules in Chapter 59A-24.006, Florida Administrative Code.
- B. Laboratory Assistance - The approved laboratory shall provide technical assistance to the MRO for the purpose of interpreting any positive confirmed test results which could have been caused by a prescription or non-prescription medication taken by the employee.
- C. Laboratory Analysis Procedures - All laboratory security, chain of custody, transporting and receiving of specimens, specimen processing, retesting, storage of specimens, instrument calibration and reporting of results shall be in accordance with Section 112.0455, Florida Statutes, and its attendant rules in Rule 59A-24.006, Florida Administrative Code.

D. Initial Test - The initial screen for all drugs shall use an immunoassay methodology except that the initial test for alcohol will be an enzyme oxidation methodology. The following cut-off levels shall be used when first screening specimens to determine whether they are positive or negative for the drugs or metabolites specifically listed below. In the event that the following cut-off levels are subsequently amended by legislation, the cut-off levels set forth in the new legislation shall control. All levels exceeding the following shall be reported as positive and reported for confirmation testing:

Alcohol	0.04g%
Amphetamines	1000 ng/ml
Barbiturates	300 ng/ml
Benzodiazepines	300 ng/ml
Cannabinoids	50 ng/ml
Cocaine	300 ng/ml
Methaqualone	300 ng/ml
Methadone	300 ng/ml
Opiates	2000 ng/ml
Phencyclidine	25 ng/ml
Propoxyphene	300 ng/ml

However, the Village reserves the right to conduct expanded profile testing for any and all of the drugs and metabolites listed above.

E. Confirmation Test - All specimens identified as positive on the initial test shall be confirmed using gas chromatography mass spectrometry (GC/MS) except that alcohol will be confirmed using gas chromatography. All confirmations shall be done by quantitative analysis. Concentrations which exceed the linear region of the standard curve shall be documented in the laboratory record as “greater than highest standard curve value.” The following confirmation cut-off levels shall be used when analyzing specimens to determine whether they are positive or negative for the drugs or metabolites specifically listed below. (In the event that the following confirmation cut-off levels are subsequently amended by legislation, the confirmation cut-off levels set forth in the new legislation shall control.) All levels exceeding the following shall be reported as positive:

Alcohol	0.04g%
Amphetamines	500 ng/ml
Barbiturates	150 ng/ml
Benzodiazepines	150 ng/ml
Cannabinoids	15 ng/ml
Cocaine	150 ng/ml
Methaqualone	150 ng/ml
Opiates	
Codeine	2000 ng/ml
Morphine	2000 ng/ml
6-Acetylmorphine	10 ng/ml
Phencyclidine	25 ng/ml
Methadone	150 ng/ml
Propoxyphene	150 ng/ml

- F. Drug testing laboratories shall retain and store all confirmed positive specimens pursuant to Section 112.0455, Florida Statutes, and its attendant rules as established in Chapter 59A-24.006, Florida Administrative Code. The assigned laboratory shall be required to maintain any specimens under legal challenge for an indefinite period.

22-8. Release of Results

A. Reporting Results:

1. The laboratory shall report test results to the MRO within seven business days after receipt of the specimen by the laboratory.
2. The laboratory shall report as negative to the MRO all specimens which are negative on the initial test or are negative on the confirmation test. Only specimens which are confirmed as positive on the confirmation test shall be reported positive to an MRO for a specific drug.
3. The laboratory shall transmit to the MRO in a manner designed to ensure confidentiality of the information. The laboratory and MRO must ensure the security of the data transmission and restrict access to any data transmission, storage, and retrieval system.
4. The MRO and/or the tested employee may request from the laboratory, and the laboratory shall provide quantified test results.
5. The MRO will also verify that positive and negative test results were properly analyzed and handled. The MRO will have knowledge of substance abuse disorders and shall also be knowledgeable in the medical use of prescription drugs and in the pharmacology and toxicology of illicit drugs. The MRO shall evaluate the drug test results which are reported by the laboratory, verify the drug test results by checking the chain of custody form that the specimen was collected, transported and analyzed under proper procedures as set forth in this policy.
6. The MRO will initially notify the employee of a confirmed positive test result within three business days of receipt of the test result from the laboratory and determine if any alternate medical explanations caused a positive test result. This determination by the MRO shall include conducting a medical interview with the employee, review of the employee's medical history, review of any other relevant bio-medical factors, a review of all medical records made available by the tested employee, and an inquiry as to whether any prescription or non-prescription medications could have caused the positive test result. The MRO will provide an opportunity for the employee to discuss the positive test result and to submit documentation of any prescriptions relevant to the positive test result for up to five business days after notification period.
7. The MRO will then communicate the test results of an employee to a designated representative of the Village of Royal Palm Beach and the employee. The test results shall be communicated only after the MRO has verified that the positive

and/or negative test results were properly analyzed and handled and, in the case of a positive test result, the MRO has provided at least up to five business days for the employee to discuss the positive test results and to submit documentation of any information relevant to the positive test results.

8. The MRO shall provide to the designated representative of the Village of Royal Palm Beach and the employee a copy of the test results subject to the employee protection provision (Section 22-11) and the confidentiality provision (Section 22-15) of this policy.
- B. Records of Results – All records pertaining to a given specimen shall be retained by the drug testing laboratory for a minimum of five years. Also, drug testing laboratories shall retain in place all confirmed positive specimens in a properly secured long-term frozen storage facility for a period of at least one year from the date of the initial testing. Within this one-year period of time, an employer, employee, or medical review officer may request in writing that the laboratory retain the specimen for an additional period of time. If no such request is received, the laboratory may discard the specimen after one year of storage. However, when notified in writing, the laboratory shall be required to maintain any specimens under administrative or legal challenge for an indefinite period.

22-9. After a Positive Test Result

If an employee has a confirmed positive test result, the Village will send the employee a letter within five business days of its receipt of notification from the Medical Review Officer (MRO) notifying the employee of his/her positive test result. The letter will outline the employee's rights and the manner in which he/she may challenge a positive test result. The employee is responsible for any costs associated with the challenge.

22-10. Challenges To Test Results

- A. Within five (5) business days after receipt of a positive confirmed test result from the MRO, the Medical Review Officer shall inform the applicant/employee in writing of the employee's right to explain or contest the test results. The applicant/employee will be allowed up to five (5) business days to submit information to the Medical Review Officer explaining the test results. If the applicant's/employee's explanation is unsatisfactory to the Medical Review Officer, the applicant/employee will be notified of such within fifteen (15) days of the date the challenge was received and the MRO shall report positive test results to the Village. At that time the applicant/employee will be provided with a copy of the positive test results and the name and address of the laboratory.
- B. Within fifteen (15) calendar days from when an employee's explanation was due, the Village of Royal Palm Beach must notify the applicant/employee in writing of their final decision. If the applicant/employee did not submit information explaining the test results, or if the Village of Royal Palm Beach deems the explanation to be unsatisfactory, the Village of Royal Palm Beach must include in their decision the consequences of such results and the options available to the employee including the right to file an administrative or legal challenge pursuant to law or the rules adopted by the Agency for

Healthcare Administration. All such documentation shall be kept confidential by the Village of Royal Palm Beach and shall be retained by the Village of Royal Palm Beach for at least one year.

- C. An employee may challenge the testing procedures, test results, and/or consequential action taken by the Village of Royal Palm Beach through the grievance process. The grievance process will begin as soon as the Village of Royal Palm Beach notifies the employee in writing of the Village of Royal Palm Beach's final decision regarding the tested employee.
- D. When an employee does undertake an administrative or legal challenge to the results of a drug test, it shall be the employee's responsibility to notify the laboratory in writing of such challenge. An employee has 180 days after written notification of a positive test result to have a portion of the specimen re-tested, at the expense of the employee. After such notification, the sample shall be retained by the laboratory indefinitely until the administrative or legal challenge is settled. However, regardless of an administrative or legal challenge, all positive confirmed specimens will be retained by the laboratory for at least one year from the date of initial testing. (See Section 22-7)
- E. If the applicant/employee desires to have the specimen tested at another laboratory, he or she shall have the first laboratory transfer the specimen to the second laboratory. The Village will not make the transfer.
- F. In the event, an employee successfully sustains either an administrative or legal challenge to the results of a drug test the employee will be reinstated with back pay and benefits.
- G. Nothing in this drug testing policy shall be construed to eliminate or diminish any rights provided to the Village of Royal Palm Beach employees by the collective bargaining process and the resulting collective bargaining agreements thereof.

22-11. Employee Protection

- A. The supervisor recommending reasonable suspicion drug testing shall detail in writing the circumstances which formed the basis of the determination that reasonable suspicion existed to warrant testing. A copy of this documentation must be given to the employee prior to testing; however, the aforementioned documentation may be subsequently amended, any such amendments will be supplied to the employee, to add to or further explain the circumstances that led to the decision to subject the employee to drug testing. Such amendments shall be given to the employee. The documentation shall be kept confidential by the Village of Royal Palm Beach.
- B. If an employee disputes the supervisor's recommendation of reasonable suspicion, the employee must, nonetheless, submit to a blood/urinalysis test, as ordered by the Village Manager or his/her designee, while also filing a grievance in writing directed to his/her immediate supervisor on duty.

- C. All employees may, upon request, have a witness present during the testing procedure, provided that the test will not be postponed for more than 45 minutes waiting for the witness. An attempt will be made to telephone a witness advising of said pending tests, but in no instance will the 45 minute waiting rule be waived.
- D. The Village of Royal Palm Beach must place any employees who are tested for reasonable suspicion under the provisions of this policy on administrative leave with pay until a final decision is made on the tested employee by the Village of Royal Palm Beach. Upon positive test confirmation paid administrative leave will cease and the employee will be subject to discipline up to and including termination.
- E. The Village of Royal Palm Beach will not request or receive from any testing facility any information concerning the personal health, habit, or condition of the tested employee including the presence or absence of HIV antibodies in the tested employee's body fluids.
- F. The drug testing laboratory may not disclose any information concerning the health and mental condition of the tested employee.
- G. During the 180-day period after written notification of a positive test result, the employee who has provided the specimen shall be permitted by the Village of Royal Palm Beach to have a portion of the specimen retested at the employee's expense. Such re-testing must be done at another licensed and certified laboratory, as appropriate, chosen by the employee. The second laboratory must test at equal or greater for the sensitivity for the drug in question as the first laboratory. The first laboratory which performed the test for the employer shall be responsible for the transfer of the portion of the specimen to be retested, and for the integrity of the chain of custody during such transfer. If the split sample is shown to be negative, the Village of Royal Palm Beach shall reimburse the employee for all costs associated with testing the split sample, and the employee will rehire the employee to his/her previous position and the employee will be made whole for all lost wages and benefits.
- H. The Village of Royal Palm Beach will not discharge, discipline, refuse to hire, discriminate against, or require rehabilitation of an employee on the sole basis of a positive test result that has not been verified by a confirmation test, or on the basis of any prior medical history revealed to the Village pursuant to this policy.
- I. The Village of Royal Palm Beach will not discharge, discipline, or discriminate against an employee upon the employee voluntarily seeking treatment, prior to being subjected to a drug test administered in accordance with this policy provided the employee discontinues the use of drugs and/or alcohol and agrees to enter an approved treatment program.
- J. All documents and records with regard to the drug testing of an employee will be expunged from an employee's file if the employee is cleared through an administrative or legal challenge, and/or under reasonable suspicion drug testing, if the employee's test results are negative.

22-12. Reporting Use of Prescription or Non-Prescription Medications

- A. An employee or job applicant will be able to confidentially report the use of prescription or non-prescription medications, both before and after being tested, as presence of those medications in the body may affect the outcome of the test. Pursuant to Section 440.102(3), Florida Statutes, employees and job applicants have the right to consult the testing laboratory or the MRO for technical information regarding prescription or non-prescription medications.
- B. Employees must inform their Supervisor or the Human Resource Department if they are taking medicine that may affect their ability to perform their job, drive a vehicle, or operate safety sensitive equipment. Furthermore, employees may be asked to get a fitness for duty if they are taking medication which appears to be having a significant impact on the employee's ability to perform the duties of their position.

22-13. Rehabilitation

- A. As a result of an employee voluntarily seeking treatment, or when discipline is involved pursuant to this policy requiring an employee to undergo treatment, the employee shall enter an alcohol/substance abuse program approved by the Village of Royal Palm Beach. The approved program administrator shall determine when the employee has been successfully rehabilitated. There will be no set time frame in which the program administrator will be obligated to determine whether an employee has been successfully rehabilitated.
- B. If approved by the program administrator, the Village of Royal Palm Beach shall make every effort to place a safety-sensitive position employee in a non-safety-sensitive position while the employee participates in the employee assistance program for a period not to exceed ninety (90) days. If a non-safety-sensitive position is unavailable, or if the program administrator requires in-patient treatment for the employee, the employee shall be placed on leave status without pay until successfully rehabilitated. In no case shall the leave status without pay extend for a period longer than six (6) months. If placed on leave status without pay, the employee may use any accumulated leave hours prior to being placed on leave without pay
- C. The Village of Royal Palm Beach will make every effort to ensure that the rehabilitation of the employee will be successful. Once the employee is rehabilitated, as determined by the program administrator, the employee shall be reinstated to the same or equivalent position that was held prior to such rehabilitation.
- D. If the employee fails to enter or complete the program, the employee may be subject to discipline up to and including termination.
- E. Alcohol/substance abuse which is verified by a confirmed positive test thereafter may be grounds for discipline with no further opportunity for rehabilitation.

22-14. Employee Assistance Program

The Village of Royal Palm Beach shall have a contact person as designated by the Village Manager who will be responsible for providing the names, addresses, and telephone numbers of the employee assistance program available to employees and their dependents. Information about the employee assistance program shall be given to the collective bargaining units and all employees prior to policy implementation.

22-15. Confidentiality

- A. All information, interviews, reports, statements, memoranda, and drug test results, written or otherwise, received or produced by the Village of Royal Palm Beach through this policy are confidential communications and are exempt from the provisions of Section 119.07(1), Florida Statutes, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in accordance with Section 440.102, Florida Statutes.
- B. The Village of Royal Palm Beach, the assigned laboratory, the Medical Review Officers (MROs), the employee assistance programs, the drug and alcohol rehabilitation programs and their respective agents who receive or have access to this information concerning drug test results shall keep all information confidential. Release of such information under any other circumstances shall be solely pursuant to a written consent form signed voluntarily by the person tested, unless such release is compelled by a hearing officer or a court of competent jurisdiction pursuant to an appeal taken under this drug testing policy, or unless deemed appropriate by 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; and
 - 5. The signature of the person authorizing release of the information.
- C. Information on drug test results shall not be released or used in any criminal proceedings against the employee or job applicant. Information released contrary to Section 440.102, Florida Statutes, and Chapter 38F-9 Florida Administrative Code, shall be inadmissible as evidence in any such criminal proceeding.
- D. Nothing herein shall be construed to prohibit the Village of Royal Palm Beach, an agent of the Village of Royal Palm Beach, or the laboratory conducting a drug test from having access to employee drug test information when consulting with legal counsel in connection with the actions brought under or related to this policy or when the information is relevant to its defense in a civil or administrative matter.

22-16. Conviction

If you are charged or convicted of any drug related crime (sale, use or possession), you must notify the Village within twenty four (24) hours of your charge/conviction. Failure to notify the Village of such conviction is grounds for termination.

22-17. Education

- A. The Village of Royal Palm Beach will maintain a current resource file of providers of employee assistance including alcohol and drug abuse programs, mental health providers, and various other persons, entities or organizations designed to assist employees with personal or behavioral problems.
- B. The Village of Royal Palm Beach must inform employees and new hires about any employee assistance programs that the Village of Royal Palm Beach may have available.
- C. The Village of Royal Palm Beach must provide an annual education course for its employees to assist them in identifying personal and emotional problems which may result in the misuse of alcohol or drugs. This course must also include a presentation on the legal, social, physical, and emotional consequences of the misuse of alcohol or drugs.
- D. The Village of Royal Palm Beach must provide training through an annual educational course to all supervisors who will be assigned the task of determining or certifying reasonable suspicion as defined in this policy. The primary focus of this educational course shall be to train and educate all supervisory personnel on how to determine reasonable suspicion as defined in this policy.

22-18. Conflict With Other Laws And/Or Collective Bargaining Agreement

- A. Any specific reference in this policy to Section 112.0455, Florida Statutes, and Chapter 59A-24, Florida Administrative Code, is hereby incorporated by reference only to the extent that there is not a conflict with other provisions in this policy. The specific provisions of the drug testing policy shall control over any conflict with any references to Section 112.0455, Florida Statutes, and Chapter 59A-24, Florida Administrative Code.
- B. This drug testing policy is in no way intended to diminish, waive, or supersede any constitutional or other rights not specifically mentioned in this policy that the employee may be entitled to under federal, state, or local statutes.
- C. This drug testing policy is in no way intended to diminish, waive, or supersede any rights provided to employees under a collective bargaining agreement or any rights to appeal to the Public Employee Relations Commission. The employee has also has the right to challenge the results of any drugs or alcohol tests and any discipline imposed due to the provisions of this drug testing policy in the same manner that any other Employer action can be grieved under the terms of the collective bargaining agreement.
- D. It is the intent of the parties for this policy to comply with applicable Florida Statutes and Administrative Regulations.