


# POLICY

	Policy:	<b>Fit for Duty Policy</b>		
	Department:	Corporate Services	By-Law No.:	N/A
	Division:	Human Resources	Approval Date:	February 14, 2022
	Administered By:	Manager of Human Resources		
	Replaces:	H00 - Drugs and Alcohol Oct. 23, 2006		
	Attachment(s):	N/A		

## 1. POLICY STATEMENT

The Corporation of the Town of Amherstburg has designed a fitness for duty policy in order to strengthen its commitment to safe and efficient operations. The Town is committed to creating and maintaining a safe working environment for its employees. The Town recognizes that an employee's fitness for work may be affected for a variety of reasons including the adverse effects of fatigue, stress, Alcohol or Drugs. These factors can lead to major deficiencies in an employee's work performance and are contributing factors in workplace injuries.

## 2. PURPOSE

- 2.1. Communicate the Town's expectations of employees to report to work Fit for Duty. Adopting this policy is a reasonable precaution that the Town is required to take to protect the health and safety of workers under Section 25(2)(h) of the Ontario *Occupational Health and Safety Act*;
- 2.2. Communicate the Town's expectations of its supervisory and management staff in regards to the administration and enforcement of this Policy;
- 2.3. Reiterate the Town's commitment to assist and accommodate employees with disabilities, including those suffering from substance abuse. The Town has a duty to accommodate under Part I, 2(1) of the *Ontario Human Rights Code*; and
- 2.4. To support the goal of maintaining a healthy and safe work environment for staff and the public.

## 3. SCOPE

- 3.1. This policy applies to all Town staff.
- 3.2. This policy shall be reviewed every five (5) years from the date it becomes effective, and/or sooner at the discretion of the CAO or designate.

## 4. DEFINITIONS

- 4.1. **Alcohol** means beverage alcohol or ethyl alcohol, such as beer, wine, distilled spirits and any mixture thereof.

4.2. **Drug** means any substance, including narcotics, legal or illegal drugs, and medications, including prescription and over-the-counter medications, in which the use has the potential to change or adversely affect a person's physiological and/or psychological state causing impairment and rendering an employee unfit for duty.

4.3. **Fit for Duty** means that an employee is in a state (physical, mental and emotional) which enables that employee to perform assigned duties and responsibilities competently, unimpaired and in a manner which does not compromise or threaten the safety or health of themselves or others.

Final determination of "Fit for Duty" is based on the opinion of the employer, manager or supervisor and where appropriate, in conjunction with other assessment procedures.

4.4. **Prescribed Medication** means a drug legally obtained through a treating medical practitioner's prescription or authorization, including medicinal cannabis.

4.5. **Safety-sensitive position** means a position in which impairment/intoxication could result in a direct and significant safety risk to the employee, others (including members of the public) or the environment, and includes the following positions:

- a. A job requiring an employee to operate motorized vehicles, trucks, heavy equipment, or machinery,
- b. Any other jobs as identified from time to time by the Town.

Other common definitions, acronyms, and terms are available in the Glossary located on the Town's Policies webpage.

## 5. **INTERPRETATIONS**

Any reference in this policy to any statute or any section of a statute shall, unless expressly stated, be deemed to be reference to the statute as amended, restated or re-enacted from time to time. Any references to a by-law or Town policy shall be deemed to be a reference to the most recent passed policy or by-law and any replacements thereto.

## 6. **GENERAL CONDITIONS**

### 6.1. **Expectations of Employees**

- 6.1.1. Employees have a duty to take reasonable care so as not to expose themselves or others to unnecessary health or safety risks. Employees have a responsibility to ensure that they report for work Fit for Duty, and remain so throughout their workday.
- 6.1.2. Employees not Fit for Duty shall immediately advise their Supervisor/Manager and shall not perform work.

- 6.1.3. Employees shall not use, consume, possess, distribute, sell or transfer illegal Drugs or Alcohol while on duty (including breaks, on or off the Town's property), or on the Town's property including the Town's owned, leased and rented premises, or in/or on the Town's vehicles/equipment.
- 6.1.4. Employees shall not distribute, sell or transfer legal Drugs or medication and/or prescription medication while on duty (including breaks, on or off the Town's property), or on the Town's property including the Town's owned, leased and rented premises, or in/or on the Town's vehicles/equipment.
- 6.1.5. Employees who are taking Medications and/or Prescribed Medications (including medical cannabis) are required to use their Medications/Prescribed Medications responsibly. The possession in the workplace (including the Town's vehicles) of Prescribed Medications (including medical cannabis) without a legally obtained prescription/authorization is prohibited. Furthermore, consumption of medical cannabis in any area of the Town's enclosed workplace (including vehicles) is prohibited and its consumption - and place of consumption - during the work day, including on breaks, must first be the subject of an express, prior written accommodation plan with the Town.
- 6.1.6. Employees must report to their Supervisor/Manager any person reasonably suspected of not being Fit for Duty while performing work for the Town.

## 6.2. **Accommodations for Employees**

- 6.2.1. Employees who suffer from substance abuse must report this to the Town before job safety or performance is compromised and before violating any term of this Policy.
- 6.2.2. The Town is prepared to provide any employee, suffering from a disability, including substance abuse, with reasonable work accommodations at the request of the employee upon the provision of supporting medical documentation.
- 6.2.3. At all times, employees have access to the Town's Employee and Family Assistance Program for confidential, personal assistance.
- 6.2.4. An employee who seeks any accommodations from the Town on account of a disability, including substance abuse, prior to any job safety incident or performance issues arising and/or violation of this Policy, will not be subject to discipline or any other adverse employment consequences in the first instance. Subsequent issues will be accommodated to the point of undue hardship.

## 6.3. **Testing**

- 6.3.1. In an effort to maintain a safe and healthy workplace, the Town reserves the right to require an employee to submit to Drug and Alcohol testing in the following circumstances:

### 6.3.2. **Reasonable Cause**

- 6.3.2.1. The Town may require an employee to undergo testing where a Supervisor/Manager has reason to believe that there is reasonable cause to suspect violation of this Policy.
- 6.3.2.2. The decision to test will be made by a Supervisor/Manager in conjunction with a second person (i.e. the Director) wherever practicable. The decision to test will be based on specific, personal observations such as, but not limited to:
  - a. Observed use or evidence of a substance (odour, flushed face, glassy eyes, unsteadiness, etc.),
  - b. Erratic or atypical behaviour,
  - c. Changes in the physical appearance or in the behaviour of the employee,
  - d. Changes in speech patterns.

### 6.3.3. **Post-Accident/Incident**

- 6.3.3.1. The Town may require an employee to undergo testing where a Supervisor/Manager has reason to believe, acting reasonably, that the cause of a significant accident, incident or near miss is unexplained and may involve or is likely to involve a Policy violation. A significant accident, incident or near miss generally involves incidents resulting in injury, death, damage to property and incidents that could have resulted in same.

### 6.3.4. **Return to Work**

- 6.3.4.1. The Town reserves the right to place employees with substance abuse issues on administrative leave and enter into Last Chance Agreements offering them the opportunity to return to work if they successfully complete the terms of their treatment and rehabilitation program, pass drug and alcohol tests and meet other conditions of reinstatement.

### 6.3.5. **Confidentiality**

- 6.3.5.1. Information provided to the Town by employees seeking accommodations will be kept confidential and private and will only be used by the Town for the purposes of accommodations and disclosed on an "as needed basis".
- 6.3.5.2. Individuals who report, to their Supervisor/Manager, their suspicions of another person being not Fit for Duty may do so in confidence, and the reporting individual's information and identity will be kept confidential to the extent possible, but subject to any disclosure requirements imposed by law.

#### 6.3.6. **Violation**

- 6.3.6.1. Violations of this Policy may result in corrective action, up to and including dismissal. Refusal to complete a testing process set out in this Policy is considered a Policy violation.

### 7. **RESPONSIBILITIES**

- 7.1. **Council** has the authority and responsibility to:

7.1.1. Approve the *Fit for Duty Policy*.

- 7.2. The **Chief Administrative Officer** has the authority and responsibility to:

7.2.1. Ensure compliance with the *Fit for Duty Policy*.

- 7.3. The **Manager of Human Resources** has the authority and responsibility to:

7.3.1. Receive and respond to accommodation requests in accordance with legislated responsibilities and adopted Town policies and procedures; and,

7.3.2. Provide assistance to Directors, Managers and Supervisors addressing matters arising from *the Fit for Duty Policy*.

- 7.4. **Directors, Managers and Supervisors** are responsible to:

7.4.1. Communicate this Policy to their employees and address their employees' questions and concerns;

7.4.2. Assess an employee reporting to work to determine whether the employee appears Fit for Duty and can safely perform his or her regular duties and if not, taking appropriate action, including sending the employee home (with appropriate transportation precautions);

7.4.3. Observe and monitor their employees for signs of impairment, and if impairment is observed, determine the cause of the observation, with the employee, privately, and take appropriate action if the employee's work performance has deteriorated to an unacceptable level or their actions or condition can jeopardize their safety or that of others;

7.4.4. Receive and address any reports from other employees or others suspecting an employee to be impaired, and take appropriate action to safeguard the safety of the employee, co-workers and the public;

7.4.5. Coordinate accommodation requests with Human Resources for any employee suffering from a disability who, because of that disability cannot perform the essential duties of his or her employment; and,

7.4.6. Coordinate with Human Resources any appropriate disciplinary response for violations of this Policy.

- 7.5. **Staff** have the responsibility to:

7.5.1. Abide by and adhere to the *Fit for Duty Policy*.

## **8. REFERENCES AND RELATED DOCUMENTS**

- 8.1. *Accessibility for Ontarians with Disabilities Act, R.S.O, 2005*
- 8.2. *Ontario Human Rights Code (OHRC), R.S.O. 1990*
- 8.3. [Canadian Centre on Substance Abuse and Addiction](#)
- 8.4. [Canadian Centre for Occupational Health and Safety – Impairment at Work](#)
- 8.5. *Discipline Policy*
- 8.6. [Workplace Wellness Program](#)
- 8.7. [Occupational Health and Safety Act \(OHSA\), R.S.O 1990](#)