

**THE CORPORATION OF THE
TOWNSHIP OF EDWARDSBURGH/CARDINAL**

BY-LAW NO. 2019-33

“BEING A BY-LAW TO ESTABLISH A FIT FOR DUTY POLICY”

WHEREAS Section 8 of the Municipal Act, 2001, as amended, provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to govern its affairs as it considers appropriate and to enhance the municipality’s ability to respond to municipal issues; and

WHEREAS Section 11 (2) of the Municipal Act, 2001, as amended, provides that Municipal Councils may pass by-laws for the health, safety and well-being of the inhabitants of the municipality; and

WHEREAS the Smoke Free Ontario Act, 2017, as amended, prohibits smoking or vaping of tobacco and cannabis in any enclosed workplace, any enclosed public place and any other place designated as smoke- free and vape-free; and

WHEREAS the Township of Edwardsburgh Cardinal is committed to the safety of its employees, customers, and the public, and strives to provide a safe work environment; and

WHEREAS the Township of Edwardsburgh Cardinal believes that maintaining a drug and alcohol free workplace and minimizing work-related incidents are crucial steps to ensuring that the work environment, employees, families and communities remain safe; and

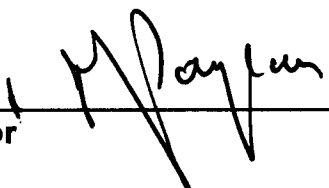
WHEREAS the Council of the Corporation of the Township of Edwardsburgh Cardinal deems it advisable to adopt the fit for duty policy;

NOW THEREFORE the Council of the Corporation of the Township of Edwardsburgh/Cardinal enacts as follows:


1. The Fit for Duty Policy, as described in Schedule “A” attached hereto and forming part of this by-law, is hereby adopted.
2. That all other by-laws previously passed that are inconsistent with the provisions of this by-law are hereby repealed.
3. That this by-law shall come into force and take effect on the date of passing.

Read a first and second time in open Council this 24th day of June, 2019.

Read a third and final time, passed, signed and sealed in open Council this 24th day of June, 2019.



Mayor



Deputy Clerk

FIT FOR DUTY POLICY

SECTION I. POLICY OVERVIEW

A. Goal

The Township of Edwardsburgh Cardinal is committed to the safety of its employees, customers, and the public, and strives to provide a safe work environment. To do so, employees must be able to perform their job duties in a safe, secure, productive, and effective manner, and remain able to do so at all times while working. Employees who are not fit for duty may present a safety hazard to themselves, other employees, or the public.

Employees have the responsibility to report to work capable of performing their tasks safely and productively. Impairment due to drugs, alcohol, medications, and other physical, mental or emotional conditions may have serious adverse impacts on the workplace.

The Township believes that maintaining a drug and alcohol free workplace and minimizing work-related incidents are crucial steps to ensuring that our environment, employees, and the families and communities that depend upon them, remain safe. This belief is the foundation of the Township's policy of Zero Tolerance for the sale, distribution, consumption, purchase, possession, or transportation of drugs or alcohol to, on, or from Township property by Township employees. The Fit for Duty Program (the "Program") is designed to define and implement that goal and to educate our employees as to the Township's expectations.

B. Implementation

The CAO/Clerk is responsible for the interpretation and implementation of this Program.

All managers are responsible for applying this Program and for ensuring their staff members' compliance with it throughout their respective areas of authority.

The Program applies to all prospective and current employees, including, but not limited to, officers, supervisory personnel, full-time and part-time employees, temporary personnel, off-site employees, students, apprentices and volunteer firefighters.

Notice of the Program summarizing key elements will be circulated periodically to all employees, with copies of the full Program to be distributed and receipt acknowledged as per the attached Certification. Violation of this Program will be grounds for intervention as outlined below and may lead to disciplinary action up to and including dismissal.

C. Statement of Philosophy

The operating procedures and practices of the Township are designed to promote the development and maintenance of the highest possible levels of worker health and safety in an efficient and productive workplace setting.

The Township is committed to:

- Providing a safe work environment to protect employees and the public;
- Monitoring employee attendance, performance, and behaviour;
- Providing an Employee Assistance Program (a counselling service available for all employees) and strongly encourages employees to use this service for assistance with alcohol/drug problems or other personal concerns; and
- Expecting employees to manage their health in such a way that they can safely perform their essential job duties, with or without reasonable accommodation, as required and appropriate.

The Township is committed to meeting its obligations under the *Canadian Human Rights Act* and the Program is to be interpreted so as to be in compliance with that Act. The Township understands that substance dependency is considered to be a disability under the *Canadian Human Rights Act* and will comply with the requirements of that Act and any other applicable laws in the implementation of this Program. The Township understands that alcohol or drug dependency may be treated and that early intervention greatly improves the probability of lasting recovery. Leave may be granted for medical treatment of such dependencies. Employees who suspect they are afflicted by alcohol or drug dependency are encouraged to seek assistance as soon as possible, before job performance is affected or a violation of the Program occurs. Co-workers should also encourage them to do so. No employee with an alcohol or drug dependency will be disciplined for requesting help in overcoming the problem or because of involvement in a rehabilitation program.

D. Definitions

The following words and phrases, when used in this document, have the meaning noted below each:

1. Alcohol

Means the intoxicating agent in beverage alcohol (beer, wine, spirits, etc.), ethyl alcohol, or other low molecular weight alcohols, including methyl and isopropyl alcohol.

2. Township business

Refers, without limitation, to all activities undertaken by employees in the course of the Township's operations, whether conducted on or off Township property.

3. Township driver

Includes employees whose duties involve driving a vehicle (as defined under "Township property" below).

4. Township property

Means any land, building, work, or part thereof owned, leased, or occupied by the Township;

any motor vehicle, piece of equipment, container, or other means of transportation (collectively, "vehicle"), owned, leased, rented, or used by the Township; and

any private vehicle used during the course of Township business.

5. Drug

Means any substance, including all drugs or medications, the use of which has the potential to impair an employee's ability to perform his/her job safely and meet performance expectations. This includes alcohol, drugs, medications (prescription or otherwise) and any other substance that may render the Employee unable to perform his or her job safely (e.g. inhalants).

6. Employee

Means any person employed by the Township working on Township property, including, but not limited to, officers, supervisory personnel, full-time and part-time employees, temporary personnel, off-site employees, students, apprentices and volunteer firefighters.

7. Fit for Duty

Means a state (physical, mental, and emotional) in which an employee's motor sense, hearing, balance, reaction responsiveness, response time, reflex, judgment, alertness, and coordination are free from impairment that could make it unsafe to assign the employee to functions requiring those abilities. Fit for Duty means the individual is fit to perform assigned tasks competently, safely, and in a manner that

does not compromise or threaten the safety or health of that individual or others, the environment, or Township property.

8. Impairment

Means a state of being under the influence of drugs and/or alcohol.

The following factors may be used to determine impairment:

- Observe the individual employee
 - Observe the employee's performance and behaviour
 - Is the employee inattentive, sluggish, erratic, uncharacteristic, or insubordinate?
 - Observe the employee's physical appearance
 - For example, red eyes, flushed skin, disheveled appearance, slurred speech
- Weigh any other relevant information at your disposal, including, but not limited to:
 - presence of drug or drug paraphernalia;
 - presence of alcohol; and
 - smell of alcohol or drug
- Seek a second opinion from someone else who can observe the individual employee
- Exercise judgment in good faith

9. Incident

Means an event that, whether intentionally or unintentionally, causes, or had the realistic potential to cause (i.e. a near miss), injury or damage, including, but not limited to, a fatality or serious personal injury to an Employee or member of the public; an environmental spill with significant implications; or significant loss or damage to property, equipment, or vehicles.

10. Medical Review Officer ("MRO")

Means a medical doctor who has been trained and certified in the interpretation and reporting of human drug testing for substances abuse.

11. Medication

Means a Drug obtained legally, either over-the-counter or through a medical doctor's prescription or authorization.

12. Near Miss

Means an unplanned workplace event that does not cause significant injury or damage to property but had the realistic potential to do so.

13. On-the-job

Means any time that an individual is engaged in Township business including travel to the work site.

14. Positive

A positive alcohol test is one in which the blood alcohol concentration (BAC) is equal to or greater than 0.02 grams of alcohol in 100 milliliters of blood. A blood alcohol concentration which is confirmed at 0.04 gram of alcohol per 100 milliliters of blood will be considered a violation of the Program.

A positive drug test is one in which the amount of Drug in the sample identified by the concentration test is at or exceeds the specific Ng/ml limits as established by the U.S. Department of Health and Human Services, and as accepted by the Canadian government, and monitored by the Substance Abuse and Mental Health Services Administration, HHS laboratories.

15. Reasonable Cause

Means any information that would lead one to reasonably believe that an individual was under the influence of a Drug (including Alcohol), or that an individual had possession of a Drug (including Alcohol) in violation of this Program.

This includes direct observation of Drug possession or use, irrational or unusual behavior, and reporting to work in an apparent unfit condition (based on specific, contemporaneous, clear observations concerning the individual's actions, appearance, behaviour, speech or body odours) that would reasonably lead one to believe that the individual may be under the influence of a Drug.

Examples of Reasonable Cause include, but are not limited to:

- direct visual observation of or credible information from one or more eyewitnesses about the apparent possession or consumption of alcohol, illicit drugs or medications by an identifiable individual(s), in circumstances that appear to violate the Program;
- discovery of alcohol, illicit drugs, drug paraphernalia or not prescribed drugs for which a prescription is legally required in Canada at the work

place and in a location that can reasonably be associated with a particular individual;

- direct visual observation of or credible information from one or more eyewitnesses about any of the following physical or behavioural signs when an employee is at work:
 - difficulty in maintaining normal balance and coordination;
 - slurred speech;
 - illogical or unrelated responses to questions or instructions;
 - smell of alcohol on the breath;
 - unexplained sleeping, extreme drowsiness, or loss of consciousness; or
 - erratic, disruptive or highly unusual behaviour, including fighting, severe verbal altercations, or harassment;
- an unexplainable failure to follow critical safety rules or operating procedures;
- an arrest, conviction, or the identification of an individual as the focus of a police investigation for an alcohol or drug-related offence whether under the Criminal Code or provincial statutes, where the offence is alleged to have occurred at work; and
- evidence that an individual has tampered with a previous test.

16. Safety Sensitive Position

Means a position in which a state of reduced cognitive capacity could result in immediate direct and significant risk of injury to the individual, others, Township property, and/or the environment. These positions depend on alertness, quickness of response, soundness of judgment, and accuracy of coordination of multiple muscle functions, and have a direct role in an operation where inappropriate performance of the task could result in harm to oneself, coworkers, clients, invitees, Township property, or the environment. This definition includes all individuals who are required to perform work within a safety sensitive area, whether on a permanent, interim or temporary basis. Employees should be advised in writing upon appointment that this Program applies to them and specifically advised if they occupy a Safety Sensitive Position.

17. Substance Abuse Professional ("SAP")

Means a professional responsible for determining whether or not an Employee has an Alcohol or Drug dependency or abuse problem and needs assistance to overcome such problem.

E. Responsibilities

Each of the Township Employees covered by this Program are responsible for ensuring the safety and wellbeing of all in the workplace. This includes the duty to identify and report all safety issues and breaches or suspected breaches of the Program to the Township.

1. Duty of Township

The Township and contractors are required by law to provide a safe workplace and safe systems of work, which includes the elimination of known hazards in the workplace. Part of that duty includes taking reasonable precautions to ensure that all Employees on Township property are Fit for Duty so as to minimize risks to health, safety, the environment, and Township property.

The Township will provide confidential assessment, counselling, referral, and aftercare services through its Employee Assistance Program.

The Township will clearly communicate to all employees its expectations with respect to compliance with the Program. It will train managers and supervisors to identify the early signs of substance abuse, in a common effort to eliminate impairment and its risks.

2. Duty of Management

The Management of the Township is responsible for ensuring the adoption and implementation of this Program, including:

- Township-wide implementation

Ensure that managers and supervisors understand and implement the Program in all their areas of responsibility. Contractors are to be made aware of this policy

- Provision of resources

Management shall ensure that adequate resources are allocated for the education, training, counselling, and other requirements of the Program throughout the Township's locations and operations.

- Implementation of the Program in area of responsibility

Management staff are responsible for the effective implementation of the Program on their respective sites, including the briefing of all Employees, the provision of appropriate education and training resources, and the review of the Program's application and effectiveness in their areas of responsibility. Managerial staff are responsible for ensuring that all Employees in their area of responsibility understand and comply with the requirements of this Program. Managerial staff are also responsible for ensuring that the program is applied fairly and consistently and that all Employees are treated with respect.

- Assessing Fitness for Duty

Where appropriate and practical, managers are responsible for assessing the fitness for duty of Employees under their control at the start of, and throughout, each work period. Managers are responsible for observing the attendance, performance, and behaviours of the employees they manage.

- Taking action when an individual is not Fit for Duty

Managerial staff are responsible for taking prompt and appropriate action whenever they have reasonable cause to believe that an Employee is not capable of working in a safe and effective manner. The exercise of this responsibility may include:

- immediately, and as unobtrusively as possible, removing the Employee from Township property;
- documenting all occasions when an Employee has been determined to be not Fit for Duty and all steps taken by managerial staff to correct the situation including providing effective feedback to the Employee concerning his/her performance or safety;
- assisting the Employee to access support and assistance.

Managerial staff are also responsible for directing employees who are under the influence of Alcohol or Drugs not to operate their own or Township vehicles and shall ensure the Township provides a means of transport for such Employees.

- Ensuring confidentiality

Communication of confidential information is on a "need to know" basis only. In general, Managerial staff will only be provided with functional ability information in respect of their direct reports.

However, if Managerial staff are in a position where they have knowledge of or are required to receive sensitive medical or other personal information about an individual, they must establish and maintain appropriate procedures and facilities to safeguard such information against unauthorized use or disclosure. Compliance with applicable privacy legislation is required.

3. Duty of Employees

Each Employee on Township property (whether under the employ of the Township or a contractor) has a duty to take reasonable care so as not to expose him/herself or others to health or safety risks, or cause or risk harm to Township property or the environment as a result of not being Fit for Duty. All Employees are required to perform their work safely and in strict compliance with all applicable rules, policies, and procedures.

An important part of this duty is ensuring that they are Fit for Duty at the start of, and throughout, each work period.

In order to fulfill this responsibility, each Employee has the obligation to:

- Read, understand, and fully comply with this Program
- Report for work in a fit condition

All Employees must present themselves at work in a condition in which they are able to carry out their duties without risk to themselves, others, Township property, or the environment. This includes ensuring that they are not in an unfit state due to the adverse effects of excess fatigue, stress, or Alcohol or Drugs. Employees are responsible for managing their health in such a way that they can safely perform their essential job functions, with or without reasonable accommodation, as required and appropriate.

- Notify the Township of any actual or potential impairment of Fitness for Duty

The Township recognizes that there are many legitimate medical causes or other reasons for physical or mental impairment of an individual's Fitness for Duty. In such circumstances, Employees must notify their Manager or Supervisor of any concerns about, or potential impairment of, their fitness for duty, however caused, including by medication. Employees may be required to have their treating medical care professional discuss their circumstances with the Township before they are permitted to return to work.

Employees will not be disciplined for reporting use of a Drug, substance dependence, or medical need for medication in advance of reporting for duty. Employees may, depending on the circumstances, be referred to a counselling program. However, Employees may be subject to discipline up to and including dismissal for reporting to work while they are not Fit for Duty due to use of a Drug, substance dependence, or medical need for medication, if it has not been disclosed in advance to the Township.

- Seek Assistance

Employees are responsible for seeking assistance from health care professionals prior to reaching a point where judgment, task performance, or workplace behaviour is negatively affected.

- Report

Employees are responsible for notifying their immediate Manager or Supervisor if they observe any other Employee or individual on Township property acting in a manner that indicates he/she may be unfit for duty. If an Employee is concerned about the behaviour of a Manager or Supervisor, he/she should report this concern to senior management.

Employees must report any Incident or Near Miss to a manager immediately and cooperate fully in the subsequent investigation.

F. Reporting to work for an emergency or unscheduled call out

Employees who are contacted to report for work for emergency or other unscheduled reasons must not accept a work assignment if they have reason to believe their ability to work safely and effectively may be impaired by reason of the use of Alcohol or Drugs. This applies to all Employees, even those who do not perform work in a Safety Sensitive Position. Any employee contacted to report in such circumstances has a duty to refuse the assignment and advise the person contacting them that they are doing so because they believe they may not be fit for duty. Employees refusing a work assignment on this basis will not be subject to discipline for the refusal; although they may, depending on the circumstances, be referred to a counselling program following two or more refusals to work because of impairment.

Employees who are on call are expected to be fit for work in compliance with these standards. Employees who are scheduled to be on-call are expected to remain Fit for Duty during such times. Failure to remain Fit for Duty during such a period may result in discipline up to and including dismissal for cause, and/or counselling as the circumstances may require.

G. Notification of Breaches of the Program

All Employees must notify their managers, supervisors or occupational health and safety representatives of any situation in which this Program may have been breached.

This includes:

- Any situation in which another individual appears to be not Fit for Duty or there is reason to believe that an individual is not Fit for Duty;
- The unauthorized possession or consumption of Alcohol or Drugs on Township property or during the work period by another individual;
- The manufacture, transportation, sale or purchase of Alcohol or Drugs while on Township business or Township property; and
- Any other breach or reasonably suspected breach of the Program.

All information reported will be dealt with in the strictest confidence save and except where disclosure is required for the immediate protection of the health and safety of the individual in question or others in the vicinity, is mandated by law, or is required to fully and properly investigate the incident reported. Failure to provide notification of breaches or reasonably suspected breaches of the Program may result in discipline up to and including dismissal.

H. Medically Required/Prescribed Drugs

It is the duty of each Employee to advise the Township of any medically prescribed or authorized Drug (such as opioids and marijuana) that has the potential to impair the Employee's ability to safely perform the duties associated with that Employee's role. Reporting for duty without disclosing any such use is grounds for discipline, up to and including dismissal.

Upon disclosing a medically required Drug, the Township will require the Employee to provide satisfactory proof that the Drug has been prescribed or is medically and legally authorized. As part of its duty to accommodate the Employee, the Township may require the Employee to provide confirmation from the Employee's treating physician that alternative (less impairing) forms of treatment are not appropriate and to disclose the impact such treatment can have on the Employee's ability to safely perform the duties of that Employee's position.

If the Township reasonably believes that the Employee has a dependency on a medically-required Drug, it may require the Employee to participate in Substance Abuse Professional evaluation to determine whether a problem of substance abuse or dependency exists. If, after evaluation, it is determined that the Employee requires

treatment before returning to work, the Township will require successful completion of the treatment as a prerequisite for returning to work. After successful completion of treatment, the Employee will be subject to all the provisions of this Program, as well as periodic unannounced follow-up testing.

Exceeding the prescribed dose of a medically-required Drug is a violation of this Program and, subject to the Township's duty to accommodate under the *Canadian Human Rights Act*, may subject the Employee to discipline up to and including dismissal for cause.

I. Standards of Conduct

To minimize the risk of unsafe performance due to impairment from Alcohol, Drugs, and/or Medication, all Employees are required to adhere to the following standards.

1. Alcohol

The following are strictly prohibited while on Township property, operating Township vehicle or equipment, during working hours, at Township events, and whenever an Employee is representing the Township or conducting Township business:

- Being under the influence of alcohol;
- Having an alcohol test result of 0.04 BAC or greater while on duty;
- Being visibly impaired in public, on or off duty, while in uniform;
- Using alcohol within the first eight (8) hours after an accident or until tested or advised by the Township that a test is not required.

2. Medications

All Employees are expected to use prescription and over-the-counter medications responsibly, including prescribed medical marijuana. The intentional misuse of medications (for example, using the medication other than as prescribed, using someone else's prescribed medication, or combining medication and alcohol use against direction) while on Township property, operating Township vehicles or equipment, during working hours, at Township events, and whenever an Employee is representing the Township or conducting Township business, is prohibited. Employees are required to investigate through their doctor or pharmacist whether a medication can affect safe operation and to take appropriate steps to mitigate associated risk. Employees must report any requirement for modified work due to the risk of impairment from use of medication to a Manager and follow any recommended course of action to minimize safety risk.

If an employee is required to use medical marijuana while at work, he/she must inform their Manager. Employees are required to investigate through their doctor or pharmacist whether a medical marijuana can affect safe operation and to take appropriate steps to minimize associated risk. Employees must report any requirement for modified work due to the risk of impairment from use of medical marijuana to a Manager and follow any recommended course of action to minimize safety risk. The employee will be required to provide a note from his/her treating physician detailing frequency of dosage and method of ingestion. Provided that accommodation is possible and should inhalation at work be the only appropriate method, the employee will not be permitted to smoke in the presence of other employees and will work with Management to determine an appropriate outdoor smoking area.

3. Other Drugs and Improper Use of Medication

The following are strictly prohibited while on Township property, operating Township vehicles or equipment, during working hours, at Township events, and whenever an Employee is representing the Township or conducting Township business:

- Being impaired by drugs;
- Using, possessing, distributing, offering, or selling illicit drugs or drug paraphernalia for the use of illicit drugs, or conspiracy or participation in any of these activities;
- Possessing prescription medication without a legally obtained prescription; and
- Distributing, offering, or selling prescription medications.

J. Investigation Procedures

- Performance Management

Regular supervision and performance management are integral to the maintenance of a safe workplace. Employees with performance problems will be reminded that they should access assistance if a personal problem affects their job performance.

- Unfit for Duty

When there is reasonable cause to believe that an Employee is unfit for work due to impairment, the Employee will be escorted to a safe place and given the opportunity to explain why he/she appears to be in an unfit condition. If the manager conducting the interview still believes that the Employee is unfit for duty, one or more of the following steps may be taken:

- The Employee will be referred for medical attention if there are immediate medical concerns;
 - The Employee will be reassigned or placed on an unpaid leave of absence until the Employee provides documentation from a qualified medical practitioner certifying that the Employee is fit to return to work safely; and/or
 - The Employee will be subject to testing in accordance with this Policy.
- Investigation of Misconduct

The Township reserves the right to investigate any situation where there are reasonable grounds to believe that alcohol or illegal drugs are present on Township property or that other misconduct has occurred.

K. Training

Employees will be provided with training and/or literature that addresses the Program and its implementation at the Township.

Managers will be provided with training that addresses the following:

- The Program and its implementation at the Township;
- The confidentiality of records and documents relating to the implementation of the Program including but not limited to the results of Screening Tests.

All training under the Program will be documented.

L. Confidentiality

Employees' Personal Health Information will be maintained in a secure location with controlled access.

Employees' Personal Health Information shall not be disclosed to third parties without the employee's consent or as required/permitted by law.

Each employee is entitled to review, upon written request, any records pertaining to the employee's Personal Health Information. Written requests for review of such records must be sent to the attention of the CAO. The written request must include the employee's printed and signed name.

SECTION II. DRUG AND ALCOHOL TESTING APPLICATIONS

A. Pre-employment Testing

As part of the recruitment process, all external applicants and internal applicants who are moving into a safety sensitive position for the first time may be required to undergo Testing as a final condition of obtaining the position. Failure to pass the test may result in not being eligible for the position, depending on the circumstances, and subject to the Township's obligations under the *Canadian Human Rights Act*. Refusal to participate in testing may result in the individual not being eligible for the position.

B. Reasonable Cause Testing

When the Township has Reasonable Cause to believe that an Employee has violated the intent or substance of this Program and is unable to work in a safe manner due to suspected Drug or Alcohol use, it will advise the Employee accordingly and request that he/she submit to testing for Drugs and/or Alcohol. To ensure the safety of the Employee and others working in the vicinity, a Township representative will transport the Employee as soon as practical to an accredited laboratory for specimen collection. The Employee will then be asked to submit to a test to be done locally. The Township will cover the cost of the test if any.

The decision to require reasonable cause testing for an employee will be based on a reasonable and articulable belief that the employee is engaged in a violation of the Program. Such reasonable and articulable belief will be based on specific contemporaneous physical, behavioural, or performance indicators of substance use or impairment. The basis for the decision in each case will be documented as soon as possible after action has taken place.

In all situations when there are grounds to believe an individual is unfit for duty, he/she will be given the opportunity to explain why he/she appears to be in a condition unfit for duty.

An Employee who is asked to take a Reasonable Cause test will be considered unfit for duty and will be placed on immediate paid suspension pending the results of the test. Should the Employee not test positive, the Employee will be paid for the period of such suspension.

The Township reserves the right to conduct unannounced searches for Alcohol and illicit Drugs on Township property, including mobile equipment and Township vehicles, where there are reasonable grounds to believe that such substances may be present.

C. Post Incident or Near Miss Testing

Incidents will be investigated by the Township in conjunction with a representative from the Joint Health and Safety Committee, if immediately available. Post Incident or Near Miss testing for Alcohol or Drugs will not be required unless it has been determined that an Employee's actions did or could have contributed to the incident and Drugs and/or Alcohol may have been a factor.

Every Employee, including those who do not perform Safety Sensitive Positions, may be subject to post incident testing for Alcohol or Drugs in accordance with the preceding criteria. Given that post incident testing forms part of the Township's investigative procedures, testing may be required even in the absence of direct evidence or suspicion of Alcohol or Drug use.

The decision to refer an Employee for a test will be made by the Manager investigating the incident. The following procedures apply:

- An Employee may be subject to testing if he/she was directly involved in the chain of acts or omissions leading up to the event;
- The facts and circumstances leading to a determination of the need for a test must be documented as part of the preliminary investigation as soon as practical after the triggering event;
- A test will not be required if there is clear evidence that the cause of the incident is unrelated to the Employee's fitness (for example, where the incident was caused by structural or mechanical failure);
- The need for a test must be determined and documented as part of the preliminary investigation as soon as practical after the triggering event; and
- Employees involved in an Incident or Near Miss must not consume any Alcohol or Drugs until after the test has been completed, or until they have been notified by the Township that a test is not required.

Reasonable Cause testing and Post Incident or Near Miss testing will be conducted as soon as is reasonably practical following the incident or event giving rise to the requirement for testing under this Program.

No testing for Alcohol shall occur more than 8 hours after the time of the incident or event giving rise to the test. In the case of Drugs (excluding Alcohol), no testing shall occur more than 32 hours after the time of the incident or event giving rise to the test. It is recognized that it may not be possible to test an individual after an incident that renders the individual incapable of giving informed consent.

D. Return to Duty Testing

The Township will require an Employee who has tested positive for Alcohol or a Drug, who has completed a treatment program for substance abuse, or who is required to do so to satisfy the recommendations of a Substance Abuse Professional, to undergo Return to Duty testing for Alcohol or Drugs. If the results of the Return to Duty testing are positive, the individual will not be allowed to return to duty and may be required to have further treatment or to fulfill additional requirements as recommended by the SAP before having an opportunity to undergo return to duty testing again.

Employees who return to duty following successful return to duty testing may be subject to random and unannounced alcohol testing for a period of up to two years, by means of breathalyzer test, or to random and unannounced drug testing for a period of up to two years by means of urinalysis, where such testing forms part of the rehabilitation and support of an employee who has been identified as having an alcohol or drug dependency. The two-year period may be extended by the Township at management discretion.

SECTION III. ACTION ON TEST RESULTS

A. General

All positive Drug results will be confirmed by Gas Chromatography Mass Spectrometry or the best available technology. An SAP evaluation is required where there is a positive result to determine whether a problem of substance abuse or dependency exists. If, after evaluation, it is determined that the Employee requires treatment before returning to work, the Township will require successful completion of the treatment as a prerequisite for returning to work. After successful completion of a treatment, the Employee will be subject to all the regular provisions of this Program, as well as periodic unannounced follow-up testing.

B. Breath Alcohol Confirmation Test Procedures

In the case of testing for alcohol with a breathalyzer, if the result of the initial screening test is 20 milligrams of alcohol per 100 milliliters of blood or greater, a confirmation test will be performed. The confirmation test will be conducted not less than 15 minutes after the completion of the screening test. The reason for this requirement is to eliminate mouth alcohol residue leading to an artificially high reading. The result of the confirmation test will be reported. Confirmation tests may also be done at the laboratory through urinalysis.

C. Current Employees

The Township recognizes that a verified positive Alcohol or Drug test does not prove impairment at the time of the test in all cases or the existence of a chemical dependency or addiction. It is widely accepted that certain Drug use generally does lead to impairment of an individual's perception, motor skills, reaction time, and clarity of thought. In order to reduce the risk from the use of Alcohol or Drugs in the workplace, the Township has established a process to be used after a verified positive result. The steps outlined below are designed to assist Employees who may require support (through either voluntary self-declaration of Alcohol and/or Drug use or delivery of a positive Alcohol and/or Drug result after testing) to find it.

1. First - the Employee will sign a Conditions of Continued Employment ("CCE"), which allows for the release of information obtained on evaluation by the SAP to the Township.
2. Second - After the CCE is signed and witnessed arrangements will be made for the Employee to be evaluated by an SAP.
3. Third - After successful completion of the SAP evaluation and the recommended rehabilitation program (if any is required), the Employee will be allowed to return to duty or to a comparable position, if circumstances warrant a change of duties, shift, or location. The Employee will remain subject to all provisions of this Program.

Both an affirmative SAP report and a Return to Duty Alcohol and/or Drug test result that is not positive (with periodic follow-up Alcohol and/or Drug testing to follow) will be required for return to duty.

If an Employee refuses to participate in a recommended education, rehabilitation, or treatment program, to sign the required CCE document, or fails, without good reason, to attend the Return to Duty Alcohol and/or Drug test or to complete the recommended education, rehabilitation or treatment program, the Employee may be subject to discipline up to and including dismissal for cause.

Employees who are off work as a result of this Program may be entitled to apply to use available applicable Township leave benefits or sick time.

D. Self-Declaration and Rehabilitation

Employees are encouraged to seek assistance from the Township before they report to duty and their Alcohol or Drug use or dependency leads to performance or safety issues in the workplace. The Employee's decision to self-declare and seek assistance from the Township will not become part of the Employee's personnel file and will not be used as basis for disciplinary action or against the Employee in any disciplinary proceedings. However, should the Employee who self-declares and receives assistance from the

Township subsequently breach the terms of this Program, the fact that the Employee voluntarily declared an Alcohol or Drug problem and sought assistance will not be a defense to imposition of disciplinary action up to and including dismissal for cause for the subsequent violation. Similarly, a self-declaration will not be a defense to any disciplinary action for violation of this Program that occurred prior to the self-declaration.

Employees who self-declare and voluntarily participate in a treatment program may apply for leave to do so with a conditional right to return to work dependent upon the Employee's successful completion of the appropriate treatment regime as determined by an SAP and Return to Duty testing as set out in this Program.

SECTION IV. ACCOMMODATION

A. Employee's Responsibility

An Employee who requires accommodation to perform the essential duties of a job has a responsibility to communicate his/her limitations and the need for accommodation to the Township in sufficient detail to indicate the type and duration of accommodation required and to cooperate in the Township's efforts to respond to the request. Specifically, information on restrictions and/or limitations must be provided.

B. Support

If the Township becomes aware that an Employee's Alcohol or Drug use, addiction, or dependency is interfering with his/her ability to perform the essential duties of the job, the Township will provide reasonable accommodation to that Employee, up to the point of undue hardship to the Township. Accommodation will be provided by the Township on a case-by-case basis that takes into account the individual circumstances of the Employee and the interests and obligations of the Township, including its obligation to ensure the safety of the workplace. As part of the accommodation process, an Employee may be required to complete a rehabilitation or treatment program.

The Township will also take appropriate steps to accommodate an Employee disclosing the use of a medically-required Drug in accordance with its obligations under the *Canadian Human Rights Act*.

C. Consequences

Where safety is an issue, Employees will be immediately removed from their Safety Sensitive duties. Unless otherwise specified, all Employees who violate the Program will be required to see an SAP for evaluation. Multiple violations of this Program will result in progressive disciplinary action up to and including dismissal for cause.

This Program is intended to provide a tool for ensuring that every Employee has a safe, healthy, and productive environment in which to work, while preserving the dignity of and providing needed assistance to those who have dependency or substance abuse disorders.

The Township reserves the right to amend this Program in any manner and at any time as it deems appropriate and in accordance with applicable law. This document will be reviewed periodically and any revisions will be published and made accessible all Employees and contractors.

CERTIFICATION OF EMPLOYEE

I have read, understood and hereby accept the terms and conditions of the Township of Edwardsburgh Cardinal's Fitness for Duty Program. I understand and accept that drug and alcohol testing may be required of me by the Township in accordance with the Fitness for Duty Program. I understand and accept that compliance with the Fitness for Duty Program is a condition of my employment at the Township of Edwardsburgh Cardinal. I understand and accept that my failure or refusal to cooperate fully in the Program is a violation of this policy and may lead to disciplinary action up to and including dismissal.

Date

Employee's Signature

Employee's Printed Name