

**MEMORANDUM OF AGREEMENT BETWEEN
THE TOWN OF ACUSHNET
AND THE
TEAMSTERS UNION, LOCAL 59 (Police Officers)**

July 1st 2018 to June 30th 2021

The Town of Acushnet (hereinafter the "Town") and the Teamsters, Local 59 (Police Officers) (hereinafter the "Union") hereby agree to amend the previous collective bargaining agreement (covering the period of July 1, 2015 through June 30, 2018) as follows for the period of July 1, 2018 through June 30, 2021, subject to ratification by both parties and funding by Town Meeting:

1. ARTICLE XV- Salaries:

Effective July 1, 2018, increase pay-scale by 2%. Effective July 1, 2019, increase pay-scale by 2%; after 2% is applied, add \$1,500 (previous EMD stipend) to pay scale and add additional \$3,000 to pay scale for a total of \$4,500. Increase Step 6 by 1.5% (total 5%). Effective July 1, 2020, increase pay-scale by 2%.

2. ARTICLE IX, Section 6:

Effective July 1, 2019, replace second paragraph with the following:

"When filling police officer shifts, the shift shall first be offered to a full time officer able to work the full 8 hours. When filling all dispatch shifts, the shift shall first be offered to civilian dispatchers and then to part-time officers, and then to full time officers. The Chief may override this process and offer overtime shifts first to part time officers based upon the needs of the Department and/or budgetary constraints."

3. ARTICLE XIV – Section 8:

Effective July 1, 2019, Delete Second Paragraph (E911 Certification Stipend).

4. ARTICLE XIV-A:

Effective June 1, 2019, Add the following: "During Active Duty Call-ups, the Town will be pay the difference in the officer's regular salary as a police officer and his/her regular military pay for a maximum of six (6) months annually."

5. ARTICLE XXII – DETAIL RATE:

Modify Article XXII, Section A as follows:

Increase to \$50 per hour, effective upon execution of the contract.

“Detail rate will be increased by additional \$5 Per Hour when alcohol is being served, except for any detail in which Town is financially responsible in anyway.”

6. ARTICLE XXXIII – Drug Testing:

Replace with the following:

ACUSHNET POLICE DEPARTMENT
DRUG AND ALCOHOL DRUG AND ALCOHOL TESTING POLICY

The intent of this Policy is to protect the integrity of the police department and maintain public confidence in law enforcement personnel who are responsible for public safety.

It is the policy of the Acushnet Police Department that employees shall not be engaged in the unlawful use, purchase or sale of illicit drugs. The Chief or his designee upon reasonable suspicion that an employee is engaged in the unlawful use, purchase or sale of illicit drugs may require the employee to submit without delay to a urinalysis test. In addition any employee involved in a motor vehicle accident, while on duty, involving injury and any employee firing his/her weapon, on or off duty, other than for target practice or hunting purposes may be required by the Chief to submit without delay to a urinalysis test.

I. POLICY

It is the Policy of the Town to ensure that members of its Police Department remain drug and alcohol free while performing their duties. To this end, members shall be subject to reasonable suspicion and post-accident drug and alcohol testing in an effort to ensure a safe work environment, reduce the potential for accidents and casualties, and to eliminate the misuse of alcohol and the illegal use of controlled substances by employees.

II. PROCEDURES

A. Required Testing

All Police Department employees are required to submit to alcohol and controlled substances testing if the request is in accordance to the terms and conditions of this Policy.

B. Period of Coverage

Subject to the terms and conditions of this Policy, the Town may order an employee to submit to a drug or alcohol test any time the employee is on-duty.

C. Prohibited Substances

Prohibited substances include: cocaine, opiates (e.g., heroin, codeine), phencyclidine (PCP), cannabinoids (marijuana), steroids, amphetamines, and alcohol. Although the non-medical use of small amounts of marijuana has been decriminalized in the Commonwealth of Massachusetts, cannabinoids remain a prohibited substance under federal statute. For the purposes of this Policy, alcohol is defined as the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol. Alcohol use means the consumption of any beverage, mixture, or preparation, including any non-prescription medication, containing alcohol.

D. Legal and Prescribed Drugs

A legal prescription means a prescription or other written approval from a physician for the use of a drug by an individual in the course of medical treatment. It must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization. The appropriate use of legally prescribed and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates the mental functioning, motor skills, or judgment may be adversely affected must be reported to supervisory personnel and medical advice must be sought, before performing work-related duties. The misuse or abuse of legally prescribed drugs or the use of illegally obtained prescription drugs shall be considered prohibited conduct. This prohibition includes the use of medication that is prescribed to an individual other than the employee.

E. Prohibited Behavior and Conduct

1. All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the following minimum thresholds:

<u>Initial test analyte</u>	<u>Initial test cutoff</u>	<u>Confirmatory test analyte</u>	<u>Confirmatory cutoff</u>
Marijuana metabolites.....	50 ng/mL	THCA ¹	15 ng/mL
Cocaine metabolites.....	150 ng/mL	Benzoyllecgonine.....	100 ng/mL
<i>Opiate metabolites</i>			
Codeine/Morphine ²	2000 ng/mL	Codeine.....	2000 ng/mL
Morphine.....	2000 ng/mL		
6-Acetylmorphine.....	10 ng/mL	6-Acetylmorphine.....	10 ng/mL
Phencyclidine.....	25 ng/mL	Phencyclidine.....	25 ng/mL

Amphetamines³

AMP/MAMP ⁴	500 ng/mL	Amphetamine.....	250 ng/mL
Methamphetamine ⁵	250 ng/mL		
MDMA ⁶	500 ng/mL	MDMA.....	250 ng/mL
MDA ⁷	250 ng/mL		
MDEA ⁸	250 ng/mL		

¹ Delta-9-tetrahydrocannabinol-9-carboxylic acid (THCA).

² Morphine is the target analyte for codeine/morphine testing.

³ Either a single initial test kit or multiple initial test kits may be used provided the single test kit detects each target analyte independently at the specified cutoff.

⁴ Methamphetamine is the target analyte for amphetamine/methamphetamine testing.

⁵ To be reported positive for methamphetamine, a specimen must also contain amphetamine at a concentration equal to or greater than 100 ng/mL.

⁶ Methylenedioxymethamphetamine (MDMA).

⁷ Methylenedioxyamphetamine (MDA).

⁸ Methylenedioxyethylamphetamine (MDEA).

Steroids – Specific Levels for Failed Test forthcoming

2. No covered employee shall report for duty or remain on duty while having an alcohol concentration of 0.02 or greater.

No covered employee shall use alcohol while on duty or within four (4) hours prior to reporting for duty.

No driver required to take a post-accident alcohol test shall use alcohol for 8 hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

3. Under independent authority, the Town prohibits every employee from using, possessing, selling, attempting to sell, distributing, purchasing, attempting to purchase, conveying, cultivating, or manufacturing illegal drugs. The Town also prohibits every employee from consuming, possessing, selling, purchasing, manufacturing, distributing, or conveying alcohol while on duty.

F. Alcohol-Testing Procedures

Testing for the presence of alcohol will be conducted by analysis of breath. Alcohol initial screening tests will be conducted by a National Highway Traffic Safety Administration (NHTSA) approved Evidential Breath Testing (EBT) device or non-evidential alcohol screening device that has been approved by NHTSA. A trained Breath Alcohol Technician (BAT) shall conduct alcohol screening tests. Confirmatory tests for alcohol concentration will be conducted utilizing an NHTSA-approved EBT device. The results of both the screening and confirmation of breath alcohol tests, as applicable, shall be displayed to the Officer being tested immediately following the test(s) and shall be provided in writing to the Officer at his request. The results will be transmitted by the breath alcohol technician to the Police Chief in a confidential manner, in writing, in person, by telephone or electronic means.

G. Drug-Testing Procedures

Testing for the presence of the metabolites of drugs will be conducted by the analysis of urine. All controlled substances testing specimens shall be analyzed by a laboratory that is approved by HHS, and that observes and adheres to applicable chain-of-custody procedures. The laboratory shall forward the results of every drug test to the Police Chief and shall be provided in writing to the Officer at his request for review. If the test result is confirmed positive, adulterated, substituted or invalid, the employee will be given an opportunity to discuss the test result with the Police Chief. If the test result is verified as positive, or as a refusal to test because of adulteration or substitution, the Police Chief shall inform the employee of his/her right to request a retest of the same specimen at a different HHS-approved laboratory, and of the process for doing so. Such request must be made by the employee within seventy-two (72) hours of the employee having been informed of a verified positive test result. The employee is responsible for the cost of the re-test. However, the re-test fee will be reimbursed to the employee if the result of the re-test is negative.

I. Circumstances When Testing May Occur

All covered employees shall be subject to reasonable suspicion, post-accident, return-to-duty, and follow-up drug and alcohol testing, as defined in this Policy.

K. Reasonable Suspicion Testing

All covered employees may be subject to a fitness for duty evaluation, to include appropriate urine and/or breath testing when there are reasons to believe that there is prohibited drug or alcohol use. A determination that reasonable suspicion exists shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee. The observations must be recent, and a supervisor, who is trained in detecting the signs and symptoms of alcohol/drug use and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to prohibited substance abuse or alcohol misuse, must be able to express clearly those observations. The behavior leading to the determination must be documented, as witnessed by the supervisor, within 24 hours. Examples of reasonable suspicion include, but are not limited to the following:

- Overt signs and symptoms of impairment
- The detectable odor of alcohol
- Physical evidence of drug use, such as possession of drug paraphernalia

L. Post-Accident Testing

Each surviving driver involved in a vehicular accident shall be subject to post-accident drug and alcohol testing if any one of the following conditions is met:

- There is a fatality; or
- The driver is cited for a moving violation AND either:
 - The vehicle is towed from the scene; or
 - Someone is medically evacuated from the scene.

M. Return-To-Duty Testing

Before an employee can be considered for reinstatement after having engaged in prohibited conduct, the employee must be cleared to return to work by a Substance Abuse Professional ("SAP") and provide a negative return-to-duty drug and/or alcohol test, depending on the substance(s) involved in the prohibited conduct. An SAP may, however, order testing for both alcohol and controlled substances. Return to duty drug tests must be observed. The Town reserves the right to withhold a final decision regarding reinstatement of a driver until after a negative result of a return-to-duty test has been received. A positive return-to-duty test result is another violation, and may result in termination. An employee with a positive return-to-duty test will be required to complete an entirely new SAP process and will be subject to follow-up testing plans for each of the violations. An employee will not be returned to duty until a negative result is obtained.

N. Follow-Up Testing

An employee, who returns to duty after complying with the recommendations of a SAP, and after providing a negative result on a return-to-duty test, is subject to unannounced follow-up alcohol and/or controlled substances testing as directed by the SAP. Follow-up drug tests must be observed. Follow-up testing may be scheduled for a period of up to thirty-six (36) months, and must include no fewer than six (6) tests to be conducted in the first twelve (12) months after the employee's return-to-duty date.

O. Consequences for Policy Violations

A covered employee who engages in any of the prohibited conduct above will be in violation of this Policy. He or she will be immediately removed from all functions and will be referred to an SAP for treatment and evaluation. An employee who has a confirmed alcohol concentration of 0.02 or greater but less than 0.04 will be removed from his/her position for twenty-four (24) hours.

The employee may also be subject to disciplinary action up to and including termination of employment.

The Town further reserves the right to take action against an employee, where appropriate, for violation of other Town and Departmental policies, procedures and/or rules.

P. Refusal to Submit to a Drug or Alcohol Test

Any employee who refuses to comply with a request for testing shall be immediately removed from duty and referred to a SAP for evaluation. A covered employee who refuses to submit to a drug or alcohol test shall be treated as having violated the Town's Drug and Alcohol Policy and will be subject, at a minimum, to all of the procedures set forth in this Policy for Return to Duty Testing, Follow-Up Testing, and treatment, evaluation, and clearance to return to duty by an SAP. The Town further reserves the right to discipline an employee who refuses to submit to required testing up to and including termination from employment. A refusal to submit to testing occurs when:

1. Fail to appear for any test within the specified time frame after being directed to do so;
2. Fail to remain at the testing site until the testing process is complete;
3. Fail to attempt to provide a urine specimen for any drug test, or fail to attempt to provide a breath specimen;
4. Fail to provide a sufficient amount of urine when directed, or fail to provide a sufficient breath specimen, and it has been determined, through a required medical evaluation, that there was not adequate medical explanation for the failure;
5. In the case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of your provision of a specimen ;
6. Fail to undergo a medical examination or evaluation, as directed by the Police Chief as part of the verification process, or as directed as part of the "shy bladder" or insufficient breath procedures;
7. Fail or decline to take a second test the employer or collector has directed you to take ;
8. Fail to cooperate with any part of the testing process (e.g. refusing to empty pockets when so directed by the collector or behaving in a confrontational way that disrupts the collection process);
9. Fail to sign the certification at Step 2 of the alcohol testing form for alcohol testing;
10. In the case of a directly observed collection, fail to follow the observer's instructions to raise your clothing above your waist, lower your clothing and underpants, and turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process;
11. Possess or wear a prosthetic or other device that could be used to interfere with the collection process ;
12. Admit to the collector or Police Chief that you adulterated or substituted a specimen; or
13. Provide a urine specimen that produces a verified adulterated or substituted test result.

Any covered employee who is suspected of providing false information in connection with a drug test, or who is suspected of tampering with, contaminating, adulterating, or substituting a specimen will be required to undergo an observed collection.

Q. General Testing Information

1. Except as required by law or expressly authorized in this section, the Town shall not release employee information that is contained in its records.
2. An employee is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol or controlled substances, including any records pertaining to his or her alcohol or controlled substances tests.
3. The Town shall release information regarding an employee's records as directed by the specific, written consent of the employee authorizing release of the information to an identified person. Release of such information is permitted only in accordance with the terms of the employee's consent.
4. Records shall be made available to a subsequent employer upon receipt of a written request from an employee.
5. The Town may disclose information pertaining to an employee/applicant to the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee/applicant, and arising from the results of an alcohol and/or controlled substance test administered under this Policy, or from the employer's determination that the employee engaged in conduct prohibited by this Policy. Other proceedings shall include, without limitation, a worker's compensation or other proceeding relating to a benefit sought by the employee.
6. If an employee is concerned about drug and alcohol use by a coworker at work, or about safety or job performance as it relates to another employee's drug and alcohol use, including managers and supervisors, such concern may be reported confidentially to the Police Chief.

R. Recollection Requirements for Dilute Specimens

A positive dilute drug test will be considered to be a positive test. A negative dilute drug test (or the report of an invalid specimen) will result in the employee being required to immediately take another test, with minimum advance notice.

S. Cost

The cost of all testing, except the testing of the split specimen, will be paid for by the Town.

7. ARTICLE XXXIV:

Add the following Section 4:

“Section 4: Uniform Standards and Appearance that prohibits “visible” tattoos, piercings (except pierced ears for female police officers), body brandings, body painting/dyeing as well as alterations and modifications (other than those modifications or alterations deemed a medical necessity by a competent physician licensed to practice medicine in Massachusetts) that detract from the professional para-military image of a police officer. The Town acknowledges that there may be existing employees that have visible tattoos. We are proposing to grandfather existing tattoos from this directive but the employee must submit documentation to the Chief of Police of the existing tattoo before this directive goes into effect. The proposed effective date is July 1, 2018. This documentation will be placed into the confidential medical file of the employee. The Town intends that any violation of this section of the policy will be grounds for immediate termination of employment.”

All of the changes in this Memorandum of Agreement will be effective upon funding by Town Meeting unless otherwise stated.

FOR TEAMSTERS, LOCAL 59:

George F. Belanger

Dated: 6/1/19

FOR THE TOWN OF ACUSHNET:

Raymond A. Clark
James H. Hough
David S. Sirochus

Dated: 6/11/19