

Drug/Alcohol Procedures Manual



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SECTION I

DISCLAIMER

The information provided in this Drug/Alcohol Procedures Manual supersedes all previous publications and postings. Modification, suspension, interpretation or cancellation of any provision to this policy shall be in accordance with City Code, subject to federal/state legislation and Department of Transportation (DOT) regulations.

STATEMENT OF PURPOSE

Because the most important asset of the City of Colorado Springs is its employees, the City is committed to the effort of providing a safe and drug/alcohol-free working environment. The City is further committed to protecting each employee's right of privacy. It is a joint commitment of both the City and its employees to strive for a drug/alcohol-free work environment. The purpose of the Drug/Alcohol Procedures Manual and other drug/alcohol-related City policies and procedures is to enhance the safety, health, and well-being of the City's employees and the people they serve.

It is the goal of the City of Colorado Springs that employees will take responsibility for their own behavior and voluntarily seek help through the City's Employee Assistance Program (EAP) or other professional programs to resolve problems. However, there may be times when management recommends or requires the EAP as part of a performance improvement plan, disciplinary action, or other recommended action to meet operational needs.

SCOPE

This Manual provides procedures for the City of Colorado Springs related to drugs and alcohol including drug/alcohol fitness for duty and Commercial Driver's License (CDL) drug/alcohol testing. The provisions of this Manual are intended to supplement the City of Colorado Springs Civilian and Sworn Policies and Procedures Manuals. The procedures included in this Manual meet DOT requirements in 49 CFR Part 40 (http://www.dot.gov/ost/dapc/NEW_DOCS/PART40.pdf) and 49 CFR Part 382 (<http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/FmcsrGuideDetails.aspx?menukey=382>) with subsequent amendments and revisions. In case of any conflict between the City's drug/alcohol procedures and current law or DOT regulations, the law or DOT regulations will prevail.

The DOT procedures used to test for the presence of alcohol and Controlled Substances, to protect the driver and integrity of the testing process, to safeguard the validity of the test results, and to ensure that those results are attributed to the correct driver, including post-accident information, will be carried out as required by 49 CFR Part 382.303(d).

Written Department Head approval is required for an employee to maintain a CDL when not required by his/her job and costs are to be incurred by the City for CDL physicals, training, random drug testing or administrative tracking. Fire Department apparatus driver positions are exempt from the CDL requirements of this policy by 49 CFR, Part 383.3(d)(2).

When staff are provided to the City under contract, it is the contractor's responsibility to provide workers who are free of drugs/alcohol. All contracts with temporary employment agencies will include provisions to help ensure a drug-free workforce. Contractors providing CDL-covered personnel will test to DOT regulations.

The provisions of this Manual are intended to supplement the City of Colorado Springs Civilian and Sworn Policies and Procedures Manuals. Any proposed changes to this Manual's provisions shall be accomplished in the same manner as changes to the Civilian Policies and Procedures Manual.

RESPONSIBILITIES

HUMAN RESOURCES MANAGER OR DESIGNEE

The Human Resources Manager or designee shall:

- Function as the Drug/Alcohol Procedures Manual administrator to provide for oversight, administration and evaluation of policy.
- Counsel on and review actions applied under this policy.
- Function as the Designated Employer Representative (DER) to receive communications and test results from service agents and to make required decisions in the testing and evaluation process.
- May serve as the second supervisor that can substantiate and concur for reasonable suspicion drug/alcohol testing.
- Schedule all drug/alcohol tests.
- Oversee the drug free workplace activities of the EAP.
- Serve as Chairperson of the Return-to-Duty Committee.
- Oversee employee Rehabilitation efforts and compliance with the Employment Agreement/Return-to-Duty Contract.

SUPERVISORS

The Supervisor shall:

- Observe the performance and behavior of their employees, document the observations of concern and take action that may be required by DOT regulations, this Manual or other City policies and procedures.
- Determine necessity of post-accident testing.
- Review the Drug/Alcohol Procedures Manual with new hire CDL drivers and with existing employees taking on CDL-Covered Functions.

EMPLOYEES

Employees shall:

- Comply with this policy.
- Respond in a timely manner to contacts by the Medical Review Officer (MRO) or DER to discuss drug/alcohol testing results.
- Sign an authorization form if referred to EAP for drug/alcohol assessment to authorize release of information such that EAP may report the assessment results to the employer. The employee is subject to termination should he/she refuse to sign such an authorization.

SECTION II

DRUG/ALCOHOL FITNESS FOR DUTY

DRUG/ALCOHOL AWARENESS

The Human Resources Department provides DOT-approved drug-free workplace training programs to inform employees and supervisors regarding substance abuse and addiction, the effects of drug/alcohol use upon the individual, the drug/alcohol testing process, and available resources for drug/alcohol counseling and Rehabilitation.

- All supervisory personnel shall be required to successfully complete supervisory drug/alcohol training.
- All employees shall be required to successfully complete drug/alcohol training for nonsupervisory employees.
- All CDL holders and their supervisors shall be required to complete drug/alcohol training in accordance with the City of Colorado Springs CDL Procedures Manual.
- The City, through the Employee Assistance Program, provides a means for employees and their dependents to obtain information and assistance with drug/alcohol-related problems.

DRUGS OR ALCOHOL IN THE WORKPLACE

- An employee is prohibited from the unlawful manufacture, distribution, dispensing, possession or use of a Controlled Substance in the workplace or on City property.
- Employees are prohibited from possessing or consuming alcohol while on duty.
- An employee who reports to work under the influence of or whose performance is Impaired through the use of alcohol or drugs is subject to corrective action in accordance with City policies and procedures, up to and including termination.
- An employee is permitted to use or possess Over-The-Counter drugs or Medically Prescribed Drugs in the workplace. Should an employee have reason to believe, or have been informed by his/her physician or pharmacist, that the use of such drugs may affect his/her ability to perform job duties, the employee shall notify his/her supervisor. The employee shall not be required to reveal to the supervisor any medical information relating to the use of such drugs. The supervisor shall assure that the confidentiality of any information and privacy of the employee as well as the safety of the employee and others are maintained. The intentional use of drugs for other than prescribed medicinal purposes or accepted Over-The-Counter use that Impairs an employee's ability to perform his/her duties will be considered a violation of policy.

- Use of “medical marijuana” by any employee is not allowed under this policy. Marijuana is a prohibited drug in Schedule I of the Controlled Substances Act and it remains a violation of City policy for any employee to use marijuana.
- Use of “medical marijuana” by CDL-covered employees is not allowed under DOT regulations as a valid medical explanation for an employee’s positive drug test result.

ALCOHOL IMPAIRMENT

An employee shall not be allowed to drive a City vehicle or a personal vehicle for City business following a positive alcohol test at any level until the next regularly scheduled duty period or 24 hours after the test, whichever is greater.

The City shall not permit any employee to work who is found to have an alcohol concentration of greater than 0.02 but less than 0.04 until the next regularly scheduled duty period or 24 hours after the test, whichever is greater. With the exception of removal from safety-sensitive functions, a test result that is greater than 0.02 but less than 0.04 shall not be treated as a failed alcohol test. However, this does not prohibit the City from taking action that is consistent with existing law, City policies and procedures, and/or an Employment Agreement/Return-to-Duty Contract.

An employee with an alcohol concentration of .04 or greater shall be treated as having failed an alcohol test.

PRE-DUTY USE OF ALCOHOL

- Employees who are assigned to standby duty, as defined in City policies and procedures, shall not use alcohol while on standby duty and shall remain immediately available to respond for duty.
- Employees who are called out without prior notice (emergency callout) are required to inform their supervisor whenever they have been consuming alcohol during the 4 hours preceding duty or if the employee has reason to believe he/she is Impaired. The supervisor shall not use such employee for duty and shall instead call an alternate employee.
- Employees in CDL-covered positions are prohibited from using alcohol within 4 hours prior to performing Covered Functions, to include normal work schedule, scheduled overtime, call out from standby or call for emergency services. The City will not use any CDL employee who has used alcohol within 4 hours prior to performing CDL-Covered Functions.

DRIVING UNDER THE INFLUENCE/DRIVING WHILE ALCOHOL IMPAIRED (DUI/DWAI) AND LOSS OF DRIVER'S LICENSE

- Employees who operate a City vehicle or their personal vehicle as a part of their job duties are required to notify their supervisor the next working day if they receive a DUI or DWAI charge.
- An employee whose driver's license is suspended or revoked, and who operates a City vehicle or his/her personal vehicle as part of their job duties, is required to immediately notify their supervisor and shall not operate a licensed City vehicle or drive their personal vehicle for work purposes.
- Should an employee's driver's license be suspended or revoked as the result of an alcohol or Controlled Substance offense, and the City at that time elects not to terminate the employee, the City may refer the employee to the EAP for substance abuse assessment. Following the assessment, an appropriate course of action will be determined. The City is in no way obligated to retain the employee if they cannot perform their normal job duties.
- An employee who holds a CDL license and, as a result of a DUI/DWAI, has his/her license suspended for any length of time, will be subject to a Return-to-Duty Agreement if continued employment is warranted.
- Unless otherwise required by law, the City is in no way obligated to comply with or to accommodate any restrictions that may be placed on an employee's driving privileges by the state (e.g., ignition interlock device, probationary or "red" license).

DRUG/ALCOHOL VIOLATIONS

An employee must notify his/her supervisor/Division Manager or Council Appointee of any criminal drug or alcohol charge for a violation occurring in or outside of the workplace no later than 5 working days after such charge. An employee must report a DUI or DWAI charge to their supervisor the next working day if they operate a City vehicle or their personal vehicle as part of their job duties.

The employee is responsible for notifying the supervisor/Division Manager of the outcome of the charge no later than 5 working days after case resolution or a plea of guilty or no contest, whichever occurs first. The City reserves the right to take disciplinary action, up to and including termination, regardless of the outcome of the case. The City may take the additional following actions with respect to any employee who pleads guilty, pleads no contest, is convicted, or is in violation of law regardless of case resolution:

- Require such employee to complete an evaluation and successfully complete an approved drug/alcohol Rehabilitation program, and/or;
- Require the employee to sign an Employment Agreement/Return-to-Duty Contract as a condition of continued employment if continued employment is warranted.

SELF REPORT OF DRUG/ALCOHOL ABUSE

The City's goal is that employees will take responsibility for their own behavior and voluntarily seek help through the Employee Assistance Program or other professional programs to resolve drug or alcohol related problems.

A CDL-covered employee who self-admits to drug/alcohol abuse will be referred for assessment and Rehabilitation counseling provided:

- The employee does not self-identify in order to avoid drug/alcohol testing.
- The employee makes the admission of drug/alcohol abuse prior to performing safety-sensitive duties.
- Such employees will be removed from safety-sensitive duties until:
 - The employee has been evaluated by the SAP and;
 - The employee has been released by the SAP to return to safety-sensitive duties and;
 - The employee has signed a Return-to-Duty Contract and successfully passed return-to-duty testing.
- Such employees will be required to participate successfully in non-DOT follow-up testing for a period of two years.

SECTION III

TESTING APPLICABLE TO ALL EMPLOYEES

PRE-EMPLOYMENT DRUG TESTING

As permitted by law, employees, except for those classifications excluded by the Human Resources Director due to the very limited nature of their engagement, are required to successfully complete a pre-employment (post offer) drug test. The successful completion of an initial DOT drug test is required for employees engaging in CDL-Covered Functions.

NOTIFICATION AND SCHEDULING OF DRUG TEST

The Offer Letter shall contain a statement that an offer of employment will be contingent upon the successful completion of drug testing. The Department's Human Resources Contact (HRC) shall provide the applicant with the Pre-Employment Drug Test Authorization Form as soon as possible following acceptance of the offer. The applicant must provide the drug test specimen within 48 hours of the notification time stated in the authorization form.

RELEASE OF RESULTS

Negative test results shall be confidentially communicated to the Human Resources Department or the selecting authority or designee. Positive test results will only be communicated to the Human Resources Department. Human Resources shall not release the results of the pre-employment drug test to anyone other than the applicant and the selecting authority.

Because the job offer is contingent upon the successful completion of the pre-employment drug test, an applicant who fails testing shall be excluded from employment. The City does not allow an applicant to have a positive drug screen retested, unless it is a DOT test. A DOT retest will be done at the applicant's expense. An applicant may receive a copy of a positive pre-employment drug test result by written request or in-person visit of the collection site.

Unless otherwise prohibited by law, an applicant who is excluded from employment as a result of a failed drug test shall be informed that unless they successfully complete a professional Rehabilitation program, they are not eligible to reapply with the City of Colorado Springs for a period of 12 months.

REASONABLE SUSPICION TESTING

All employees are subject to reasonable suspicion drug/alcohol testing. Reasonable suspicion testing is designed to provide management with a tool to identify drug or alcohol-affected employees who may pose a danger to themselves and others in the performance of their duties. When practical, the supervisor should enlist the help of a second supervisor in the substantiation and concurrence of the basis for reasonable suspicion testing.

The standard for reasonable suspicion testing does not require an overwhelming burden of proof. If the supervisor, with training in the identification of the signs and symptoms of drug or alcohol use, reasonably concludes that there are objective facts indicating drug/alcohol abuse, this is sufficient justification for testing. This conclusion may be reached through personal observation and/or information based on a report from another employee, supervisor or other reliable source. The supervisor must document his/her observations and/or information provided by other sources, e.g., what happened and under what circumstances. Hunches and “gut feelings” are not valid in making a reasonable suspicion determination.

In the end, the decision should pass the “reasonable prudent person” test. That test simply requires that a similarly trained and experienced supervisor, being reasonable and prudent, having observed and noted the same facts, signs, and circumstances would come to the same conclusion. A final practical check is whether the supervisor would have been less responsible in not taking action than in requiring the employee to submit to testing.

The totality of the circumstances will be evaluated in making a determination of reasonable suspicion. Factors that may be considered include, but are not limited to, the following:

- Pattern of unsatisfactory job performance or work habits, for which no apparent non impairment-related reason exists, or a change in an employee’s prior patterns of work performance, especially where there is evidence of drug/alcohol-related behavior on or off the work site.
- Physical signs and symptoms consistent with substance abuse.
- Evidence of illegal substance use, possession, sale, or delivery while on duty, and/or possession of drug paraphernalia.
- Occurrence of a serious or potentially serious accident that may have been caused by human error, or flagrant violations of established safety, security, or other operating procedures.
- Fighting (to mean physical contact) and assaults, or erratic, aggressive, or violent behavior.
- Past statements or admissions made by the employee.
- Possessing, selling, distributing, unlawfully manufacturing, or using alcoholic beverages or Controlled Substances, or in possession of drug paraphernalia while on duty or on City property.

- Slurred speech, altered motor skills, smells of alcohol, or similar signs/symptoms of drug or alcohol use.
- Documented job performance deterioration through declining productivity, excessive absenteeism/tardiness, unaccounted for or suspicious time lapse(s) of availability, arguments with customers/citizens and supervisors, aberrant behavior, sleeping on the job.
- Subject to criminal charges/convictions or findings resulting from an investigation of a tip/police report, etc.
- Other physical, circumstantial, or contemporaneous indications of Impairment.

PROCEDURE

During regular working hours, the decision for reasonable suspicion testing and notification of the testing laboratory should be coordinated with the Department Director/Division Manager, Human Resources and EAP. Outside of regular working hours, the Department Director/Division Manager shall approve the decision for reasonable suspicion testing with the Human Resources Manager receiving timely notification of the testing as soon as practical.

The employee shall be informed by his/her supervisor that there is reasonable suspicion for drug/alcohol testing. The supervisor shall escort the employee to the appropriate collection site for testing. An employee who has been scheduled for a reasonable suspicion drug/alcohol test shall be placed on administrative leave with pay until an assessment of the results has been completed.

- Refusal by an employee to submit to an approved drug/alcohol test based on reasonable suspicion shall be grounds for discharge.
- If drug paraphernalia or other drug related items are found on City property or in the possession of a City employee, the Colorado Springs Police Department should be notified immediately.

SECTION IV

TESTING APPLICABLE TO CDL-COVERED EMPLOYEES

RANDOM DRUG/ALCOHOL TESTING

CDL-covered employees are subject to random drug and alcohol testing under 49 CFR Part 382. Except in the case of federal/state legislation or under the terms of an Employment Agreement, non CDL-covered employees will not be subject to drug/alcohol testing on a random basis.

RANDOM POOLS

Covered employees remain in the random selection pools at all times, regardless of whether or not they have been previously selected for testing.

Once the list of unique selection numbers has been developed, it will be used for random selection without any correlation to actual employee names to avoid any suspicion of subjectivity.

Specimen collection will be conducted on different days of the week/month throughout the annual cycle to prevent employees from matching their drug use patterns to the schedule of the collection. The collection of specimens for testing will generally be performed monthly. The service agent shall select the covered employees to be tested. These tests will be unannounced and will be spread reasonably throughout the calendar year.

For all pools, whether drug or alcohol, the City will conduct the number of random tests necessary to meet the current DOT required percentage of all covered employees per calendar year.

PROCEDURE

- The process will be unannounced as well as random. Employees will be notified that they have been selected for testing only after they have reported for work on the day of collection.
- On any workday of each month, the service agent will use a computer software program for random number generation. Human Resources will then contact each department to notify the department's Drug Testing Coordinators which employees need to be tested.
- The appropriate supervisor or his/her designee will immediately transport the employee to the collection site. The employee will remain under observation by the supervisor until testing begins.
- Testing must be completed within the specified DOT testing period.

For alcohol, a driver shall only be tested while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

An employee with an alcohol concentration of .04 or greater shall be deemed to have failed the alcohol test. If an employee has an alcohol concentration greater than 0.02 but less than 0.04, the employee will not be allowed to perform safety-sensitive duties until the next regularly scheduled duty period or 24 hours after the test, whichever is greater. An employee shall not be allowed to drive a City vehicle or a personal vehicle for City business following a positive alcohol test at any level until the next regularly scheduled duty period or 24 hours after the test, whichever is greater.

POST ACCIDENT DRUG/ALCOHOL TESTING

CDL-covered employees are subject to post-accident drug/alcohol testing in accordance with 49 CFR Part 382.

A CDL-covered employee who contributed to an accident or who cannot be completely discounted as a contributing factor to an accident, must be administered a post-accident drug/alcohol test according to the conditions in the table below. The driver who is subjected to post-accident testing shall remain available for such testing for a period of 32 hours after the accident for drug testing and 8 hours after the accident for alcohol testing or may be deemed to have refused to submit to testing.

Exceptions to post-accident testing are:

- Incidents involving only boarding or alighting from a stationary motor vehicle.
- Incidents involving only the loading or unloading of cargo.
- In the course of the operation of a passenger car or multipurpose passenger vehicle unless the motor vehicle is transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded.

POST ACCIDENT TESTING REQUIREMENTS

Type of Accident Involved	Citation Issued to the Commercial Motor Vehicle Driver	Test Must be Performed
Human Fatality	Yes	Yes
	No	Yes
Bodily injury with immediate medical treatment away from the scene	Yes	Yes
	No	No
Disabling damage to any motor vehicle requiring tow away	Yes	Yes
	No	No

PROCEDURE

- The requirement to test for alcohol and Controlled Substances following an accident should in no way delay necessary medical attention for injured people or prohibit a driver from leaving the scene of an accident to obtain assistance in responding to an accident or to obtain necessary emergency medical care. Drug/alcohol testing of employees who are undergoing medical procedures, hospitalized or deceased will be in accordance with 49 CFR Part 40.
- An employee subject to post-accident drug/alcohol testing may continue to perform safety-sensitive functions pending receipt of test results so long as no other restrictions apply (e.g., reasonable suspicion or law enforcement actions).
- The results of a drug/alcohol test conducted by federal, state or local officials having independent authority for the test shall be considered to meet the requirements for post accident testing provided that the results are released to the City.
- An employee who refuses to participate in post-accident drug/alcohol testing must be removed from safety sensitive functions.

DRUG TESTING

The supervisor, with approval of the Department Director/Division Manager, shall determine the need for a drug test as soon as possible after an accident, but no later than 32 hours after an accident. If an employee is to be tested, the Human Resources Manager shall be notified in a timely manner.

The City must take all reasonable steps to administer the test within 32 hours following the accident. If the test is not administered within the 32 hours, the supervisor shall cease attempts to administer the test and prepare and forward to Human Resources a record stating the reasons the test was not promptly administered.

ALCOHOL TESTING

The supervisor, with the approval of the Department Director/Division Manager, shall determine the need for an alcohol test as soon as possible after an accident, but no later than 8 hours after an accident. If an employee is to be tested, the Human Resources Manager shall be notified in a timely manner.

The City must take all reasonable steps to administer the test within 2 hours following the accident. If the test is not administered within the 2 hours, the supervisor shall prepare and forward to Human Resources a record stating the reasons the test was not promptly administered. If a test is required and is not administered within 8 hours following the accident, the supervisor shall cease attempts to administer an alcohol test and shall prepare and forward the record to Human Resources.

RETURN TO DUTY TESTING

Return-to-duty testing for CDL-covered employees will be at the direction of the SAP and must be completed prior to returning to duty requiring the performance of safety-sensitive functions.

FOLLOW UP TESTING

After a CDL-covered employee has successfully completed Rehabilitation requirements and passed a return-to-duty test, the SAP shall direct the employee to a reasonable number and frequency of unannounced drug and/or alcohol tests for a period not to exceed 60 months.

SECTION V

FAILED DRUG OR ALCOHOL TEST

Any of the following shall constitute a failed drug or alcohol test:

- A refusal to test.
- Failure to report for the test within the scheduled time; for a pre-employment drug test, failure to appear within 48 hours of written notification without approval of the Human Resources Department.
- Failure to remain at the testing site until the testing process is complete.
- Failure to provide a specimen for testing or failure to produce a specimen of adequate quantity for testing without adequate medical explanation.
- Alteration, adulteration or substitution of a specimen sample.
- Failure to cooperate with any part of the testing process; in the case of a directly observed drug specimen collection, failure to permit the observation or monitoring of the provision of a specimen.
- Alcohol concentration of greater than or equal to 0.04 grams of alcohol per 210 liters of breath shall constitute a failed alcohol test.
- The confirmed presence of a defined prohibited drug under 49 CFR Part 40 as follows shall constitute a failed drug test:

Test Analyte & Confirmatory Test Level (ng/ml)	
Marijuana metabolites	15
Cocaine metabolites	100
Phencyclidine	25
Amphetamines (amphetamine and methamphetamine)	250
Opiate metabolites (codeine, morphine)	2000
6-acetylmorphine	10
Methylenedioxymethamphetamine (methylenedioxyamphetamine, methylenedioxyethylamphetamine)	250

SECTION VI

INTERVENTION FOR DRUG/ALCOHOL ABUSE

The City shall not allow an employee to work who fails a drug/alcohol test or voluntarily admits to prohibited drug/alcohol use. The employee shall be placed on administrative leave with or without pay until a decision has been made regarding employment status/discipline.

ACTION TAKEN

When any provision of the Drug/Alcohol Procedures Manual has been violated, the City, in its sole judgment, shall determine whether the employee is to be discharged, disciplined and/or that an attempt shall be made to rehabilitate the employee.

- If the employee is to be disciplined/discharged, the Department Director or Division Manager will proceed as set forth in City policies and procedures.
- If the decision is to allow Rehabilitation, the employee shall be referred to the EAP for assessment. The City shall review the assessment and Rehabilitation plan, and in its sole judgment, shall reevaluate its decision to attempt to rehabilitate the employee.
- A CDL-covered employee who self-admits to drug/alcohol abuse in accordance with 49 CFR 382.121 will be referred for assessment and Rehabilitation counseling.

EMPLOYMENT AGREEMENT/RETURN TO DUTY CONTRACT

If Rehabilitation is appropriate, an Employment Agreement/Return-to-Duty Contract shall be authorized on a case-by-case basis by the Human Resources Department Director. Each agreement will include, but is not limited to, the following:

- Background consisting of the reason for the agreement.
- Treatment plan consisting of the SAP recommendation. No one may change in any way the SAP's evaluation or recommendations for assistance.
- Conditions required by the City in order for the employee to maintain continued employment under the agreement. These will be at the sole discretion of the City and may include, but are not limited to:
 - Satisfactory job performance and behavior
 - Satisfactory work attendance
 - Remain drug and alcohol free
 - Comply with all court orders
 - Comply with all policies and procedures of the City and the department/division.
- Duration of the agreement, generally for a period of time not to exceed two years for non CDL-covered employees and five years for CDL-covered employees.
- Conditions with which the employee must comply.

- Statement that failure to comply with the terms of the agreement will result in discharge without any right of appeal otherwise available under City policies and procedures.
- Statement of agreement to be signed by the employee, with the opportunity to have the agreement reviewed by a personal attorney if desired.
- Signed by the Department Director or designee.

The Return-to-Duty Committee shall meet with the employee to discuss the terms and conditions for Rehabilitation and continued employment. Employees that decline to accept the Employment Agreement/Return-to-Duty Contract will be discharged in accordance with City policies and procedures. The Return-to-Duty Committee consists of the following individuals:

- Human Resources Manager (Chairperson)
- CDL Coordinator (for CDL-covered employees)
- SAP
- Department Director or designee of subject employee
- Supervisor/Manager of subject employee

Upon execution of the Employment Agreement/Return-to-Duty Contract, release by the SAP and a negative drug/alcohol return-to-duty test, the employee may return to work.

If an employee fails to satisfy the provisions of the Employment Agreement/Return-to-Duty Contract, then the employee shall be discharged.

INPATIENT/OUTPATIENT TREATMENT AND REHABILITATION

If it is determined by the SAP that the employee is not fit to return to duty until successful completion of inpatient/outpatient Rehabilitation, the employee may:

- Take accrued sick leave.
- Take accrued vacation leave or other accrued paid-time off.
- Take sick leave without pay if accrued sick and vacation leave have been exhausted.
- Request other leave that he/she is otherwise entitled to by law.

Leaves of absence for treatment and Rehabilitation shall follow provisions of the Family and Medical Leave Act and, if required by law, the Americans with Disabilities Act (ADA).

Employee participation in treatment and Rehabilitation activities during working hours shall follow sick leave policy. Time off from work, which qualifies, shall be charged to Family and Medical Leave.

RECORD KEEPING

All drug testing results and documentation will be securely locked and kept separate from the employee's personnel file. To the extent possible under law, the City shall maintain the confidentiality of all records associated with any drug/alcohol testing, including the documentation supporting a reasonable suspicion test, test results, and any subsequent Employment Agreement/Return-to-Duty Contract.

SECTION VII

FTA ADDENDUM

I. Purpose of Policy

This policy complies with 49 CFR Part 655, as amended and 49 CFR Part 40, as amended. Copies of Parts 655 and 40 are available in the drug and alcohol program manager's office and can be found on the internet at the Federal Transit Administration (FTA) Drug and Alcohol Program website <http://transit-safety.fta.dot.gov/DrugAndAlcohol/>.

All covered employees are required to submit to drug and alcohol tests as a condition of employment in accordance with 49 CFR Part 655. This policy (FTA Addendum) is in supplement to the City's Drug/Alcohol Procedures Manual (the Manual) and sets forth guidelines and procedures applicable to "covered persons" as defined herein that are in addition to the general guidelines and obligations applicable to City employees which are set forth in the Manual.

Portions of this policy are not FTA-mandated, but reflect City of Colorado Springs's policy. These additional provisions are identified by **bold text**.

In addition, DOT has published 49 CFR Part 29, implementing the Drug-Free Workplace Act of 1988, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA.

The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the covered workplace. An employee who is convicted of any criminal drug stature for a violation occurring in the workplace shall notify the Designated Employer Representative in the Human Resources Department no later than five days after such conviction.

Covered Employees

This policy applies to every person, including an applicant or transferee, who performs or will perform a "safety-sensitive function" as defined in Part 655, section 655.4.

You are a covered employee and subject to this FTA Addendum if you perform any of the following:

- Operating a revenue service vehicle, in or out of revenue service
- Operating a non-revenue vehicle requiring a commercial driver's license
- Controlling movement or dispatch of a revenue service vehicle
- Maintaining (including repairs, overhaul and rebuilding) of a revenue service vehicle or equipment used in revenue service
- Carrying a firearm for security purposes

2. Prohibited Behavior

Use of illegal drugs is prohibited at all times. 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 minimum thresholds defined in Part 40. Prohibited drugs include:

- marijuana
- cocaine
- phencyclidine (PCP)
- opiates
- amphetamines

All covered employees are prohibited from performing or continuing to perform safety-sensitive functions while having an alcohol concentration of 0.04 or greater.

All covered employees are prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. If the on-call employee claims the ability to perform his or her safety-sensitive function, he or she must take an alcohol test prior to performance.

All covered employees are prohibited from consuming alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

All covered employees are prohibited from consuming alcohol for eight (8) hours following involvement in an accident or until he or she submits to the post-accident drug and alcohol test, whichever occurs first.

3. Consequences for Violations

Following a positive drug or alcohol (BAC at or above 0.04) test result or test refusal, the employee will be immediately removed from safety-sensitive duty and referred to a Substance Abuse Professional.

Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties for at least eight hours unless a retest results in the employee's alcohol concentration being less than 0.02.

Treatment/Discipline

Per City of Colorado Springs policy, any employee who tests positive for drugs or alcohol (BAC at or above 0.04) or violates any provision of the Drug/Alcohol Procedures Manual, the City, in its sole judgement, shall determine whether the employee is to be discharged, disciplined and/or that an attempt shall be made to rehabilitate the employee. For further information reference Section VI, "Action Taken" of the City's Drug/Alcohol Procedures Manual.

4. Circumstances for Testing

Pre-Employment Testing

Pre-employment alcohol tests are conducted after making a contingent offer of employment or transfer. All pre-employment alcohol tests will be conducted using the procedures set forth in 49 CFR Part 40.

A negative pre-employment drug test result is required before an employee can first perform safety-sensitive functions. If a pre-employment test is cancelled, the individual will be required to undergo another test and successfully pass with a verified negative result before performing safety-sensitive functions.

If a covered employee has not performed a safety-sensitive function for 90 consecutive calendar days, and has not been in the random testing pool during that time, the employee must take and pass a pre-employment test before he or she can return to a safety-sensitive function.

A covered employee or applicant who has previously failed or refused a DOT pre-employment drug and/or alcohol test must provide proof of having successfully completed a referral, evaluation, and treatment plan meeting DOT requirements.

Reasonable Suspicion Testing

All covered employees shall be subject to a drug and/or alcohol test when City of Colorado Springs has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. A reasonable suspicion referral for testing will be made by a trained supervisor or other trained company official on the basis of specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee.

Covered employees may be subject to reasonable suspicion drug testing any time while on duty. Covered employees may be subject to reasonable suspicion alcohol testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions.

POST-ACCIDENT TESTING

Covered employees shall be subject to post-accident drug and alcohol testing under the following circumstances:

Fatal Accidents

As soon as practicable following an accident involving the loss of a human life, drug and alcohol tests will be conducted on each surviving covered employee operating the public transportation vehicle at the time of the accident. In addition, any other covered employee whose performance could have contributed to the accident, as determined by City of Colorado Springs using the best information available at the time of the decision, will be tested.

Non-fatal Accidents

As soon as practicable following an accident not involving the loss of a human life, drug and alcohol tests will be conducted on each covered employee operating the public transportation vehicle at the time of the accident if at least one of the following conditions is met:

- (1) The accident results in injuries requiring immediate medical treatment away from the scene, and the covered employee may have contributed to the accident

- (2) One or more vehicles incurs disabling damage and must be towed away from the scene, and the covered employee may have contributed to the accident

In addition, any other covered employee whose performance could have contributed to the accident, as determined by City of Colorado Springs using the best information available at the time of the decision, will be tested.

A covered employee subject to post-accident testing must remain readily available, or it is considered a refusal to test. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

RANDOM TESTING

Random drug and alcohol tests are unannounced and unpredictable, and the dates for administering random tests are spread reasonably throughout the calendar year. Random testing will be conducted at all times of the day when safety-sensitive functions are performed.

Testing rates will meet or exceed the minimum annual percentage rate set each year by the FTA administrator. The current year testing rates can be viewed online at <http://www.dot.gov/odapc/random-testing-rates>.

The selection of employees for random drug and alcohol testing will be made by a scientifically valid method, such as a random number table or a computer-based random number generator. Under the selection process used, each covered employee will have an equal chance of being tested each time selections are made.

A covered employee will only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions. A covered employee may be randomly tested for prohibited drug use anytime while on duty.

Each covered employee who is notified of selection for random drug or random alcohol testing must immediately proceed to the designated testing site.

RANDOM TESTING – END OF SHIFT

Random testing may occur anytime an employee is on duty so long as the employee is notified prior to the end of the shift. Employees who provide advance, verifiable notice of scheduled medical or child care commitments will be random drug tested no later than three hours before the end of their shift and random alcohol tested no later than 30 minutes before the end of their shift. Verifiable documentation of a previously scheduled medical or child care commitment, for the period immediately following an employee's shift, must be provided at least four hours before the end of the shift.

RETURN TO DUTY TESTING

Any employee who is allowed to return to safety-sensitive duty after failing or refusing to submit to a DOT drug and/or alcohol test must first be evaluated by a substance abuse professional (SAP), and provide a negative drug and/or alcohol test result. All tests will be conducted in accordance with 49 CFR Part 40, Subpart O.

FOLLOW-UP TESTING

Employees returning to safety-sensitive duty following leave for substance abuse rehabilitation will be required to undergo unannounced follow-up alcohol and/or drug testing for a period of one (1) to five (5) years, as directed by the SAP. The duration of testing will be extended to account for any subsequent leaves of absence, as necessary. The type (drug and/or alcohol), number, and frequency of such follow-up testing shall be directed by the SAP. All testing will be conducted in accordance with 49 CFR Part 40, Subpart O.

5. Testing Procedures

All FTA drug and alcohol testing will be conducted in accordance with 49 CFR Part 40, as amended.

DILUTE URINE SPECIMEN

If there is a negative dilute test result, City of Colorado Springs will accept the test result and there will be no retest, unless the creatinine concentration of a negative dilute specimen was greater than or equal to 2 mg/dL, but less than or equal to 5 mg/dL.

Dilute negative results with a creatinine level greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL require an immediate recollection under direct observation (see 49 CFR Part 40, section 40.67).

SPLIT SPECIMEN TEST

In the event of a verified positive test result, or a verified adulterated or substituted result, the employee can request that the split specimen be tested at a second laboratory. City of Colorado Springs guarantees that the split specimen test will be conducted in a timely fashion.

6. Test Refusals

As a covered employee, you have refused to test if you:

- (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by City of Colorado Springs.
- (2) Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- (3) Fail to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- (4) In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
- (5) Fail to provide a sufficient quantity of urine or breath without a valid medical explanation.
- (6) Fail or decline to take a second test as directed by the collector or City of Colorado Springs for drug testing.
- (7) Fail to undergo a medical evaluation as required by the MRO or City of Colorado Springs's Designated Employer Representative (DER).
- (8) Fail to cooperate with any part of the testing process.
- (9) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
- (10) Possess or wear a prosthetic or other device used to tamper with the collection process.

- (11) Admit to the adulteration or substitution of a specimen to the collector or MRO.
- (12) Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- (13) Fail to remain readily available following an accident.

As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

As a covered employee, if you refuse to take a drug and/or alcohol test, you incur the same consequences as testing positive and will be immediately removed from performing safety-sensitive functions, and referred to a SAP.

7. Voluntary Self-Referral

Any employee who has a drug and/or alcohol abuse problem and has not been selected for reasonable suspicion, random or post-accident testing or has not refused a drug or alcohol test may voluntarily refer her or himself to the Designated Employer Representative (DER) in the Human Resources Department, who will refer the individual to a substance abuse counselor for evaluation and treatment.

The substance abuse counselor will evaluate the employee and make a specific recommendation regarding the appropriate treatment. Employees are encouraged to voluntarily seek professional substance abuse assistance before any substance use or dependence affects job performance.

Any safety-sensitive employee who admits to a drug and/or alcohol problem will immediately be removed from his/her safety-sensitive function and will not be allowed to perform such function until successful completion of a prescribed rehabilitation program.

8. Prescription Drug Use

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to the supervisor or manager. Medical advice should be sought, as appropriate, while taking such medication and before performing safety-sensitive duties.

9. Contact Person

For questions about City of Colorado Springs's anti-drug and alcohol misuse program, contact the Designated Employer Representative, Danielle Lack, in the Human Resources Department at dlack@springsgov.com or 719-385-5765.

APPENDIX A - DEFINITIONS

CDL-covered functions	<p>Means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety sensitive functions shall include:</p> <ul style="list-style-type: none"> • All times at an employer or shipper plant, terminal, facility or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer. • All times inspecting equipment as required by the Federal Motor Carrier Safety Regulations (FMCSRs), or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time. • All times spent at the driving controls of a commercial motor vehicle. • All times, other than driving time, spent on or in a commercial motor vehicle. • All times loading or unloading a commercial motor vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts of shipments loaded or unloaded. • All times repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
Controlled Substance	<p>A controlled substance in Schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in Regulation at 21 CFR 1308.11 – 1308.15.</p>
Impairment	<p>The diminished ability to perform the job duties and responsibilities as a result of drug/alcohol use. For the purpose of these policies, the presence of drugs/alcohol above the established cutoff levels shall constitute impairment and being under the influence.</p>
Over-the-Counter Drugs	<p>Nonprescription drugs that can be readily purchased from legitimate sources such as a pharmacy, grocery store, etc.</p>
Medically Prescribed Drugs	<p>Medically prescribed drugs are drugs that are obtained either directly from a doctor or from a pharmacist using a valid prescription. “Medical marijuana” is not a prescribed drug.</p>
Rehabilitation	<p>The employee’s ability to complete a SAP-approved treatment program and be able to satisfactorily perform the job duties free from the use of drugs/alcohol.</p>
SAP (Substance Abuse Professional)	<p>A credentialed professional who evaluates employees who have violated the Drug/Alcohol policy and makes recommendations concerning education, treatment, follow up testing, and aftercare.</p>

APPENDIX B - COLLECTION SITE AND DESIGNATED EMPLOYER REPRESENTATIVE IDENTIFICATION

The following sites provide the services of urine collection and breath alcohol testing in accordance with 49 CFR 40 Subpart C, D, E, J, K, L & M.

PRE-EMPLOYMENT TESTING AND DOT INITIAL TESTING

Monday – Friday 8:00 A.M. - 4:30 P.M.	City of Colorado Springs Occupational Health Clinic 30 South Nevada Avenue, Suite 605 Colorado Springs, CO 80903 (719) 385-5965
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DOT-TESTING

Monday – Friday 8:00 A.M. - 8:00 P.M.	Integrity Urgent Care North 13445 Voyager Parkway (North Gate & Voyager) (719) 219-0333 East 4323 Integrity Center Point (Barnes & Powers) (719) 591-2558 West 1035 Garden of the Gods #120 (at I-25) (719) 329-1000
Monday – Friday 8:00 A.M. – 5:00 P.M.	Memoria Occupational Health Center Memorial OCC Health 175 S. Union Blvd, Ste 315 (719) 365-6840
After Hours Testing	Memorial Central 1400 E. Boulder St. (between Union & Hancock) (719) 279-4231 (pager)

	<p>Memorial North 4050 Briargate Pkwy (Powers & Briargate) (719) 279-4231 (pager)</p>
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DESIGNATED EMPLOYER REPRESENTATIVE IDENTIFICATION

<p>General City Danielle Lack Human Resources Manager 30 S Nevada Avenue, Suite 702 Colorado Springs, CO 80903 (719) 385-5765 dlack@springsgov.com</p>	<p>Fire Angela Hines Human Resources Administrator 375 Printers Parkway Colorado Springs, CO 80910 (719) 385-7243 ahines@springsgov.com</p>	<p>Police Heather Edwards Human Resources Administrator 705 S Nevada Avenue Colorado Springs, CO 80903 (719) 444-7442 edwardhe@ci.colospgs.co.us</p>
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