CITY OF DURANGO

DRUG-FREE / ALCOHOL-FREE WORKPLACE POLICY

I. STATEMENT OF PURPOSE

The City of Durango is dedicated to providing safe and dependable services to Durango’s citizens and visitors. We recognize that our employees are a most valuable resource, and it is our goal to provide a drug-free workplace as part of our overall commitment to safe working conditions. The purpose of this policy is to assure worker fitness for duty and to protect our employees and the public from the risks posed by the use of prohibited drugs. City workplaces are expected to be free from the use of drugs, alcohol, and other controlled substances. This policy is intended to comply with all applicable federal regulations governing workplace anti-drug abuse and anti-alcohol misuse programs associated with public service. All employees whose position requires a Commercial Drivers License are subject to alcohol and other controlled substances tests as required by Section 49 of the Code of Federal Regulations (CFR).

II. STATEMENT OF POLICY

A. Drugs, Alcohol, and other Controlled Substances: The consumption, possession, distribution, manufacture, sale, use, or being under the influence of drugs, alcohol, and other controlled substances by employees while engaged in City business is prohibited. Any employee found in violation is subject to disciplinary action as provided in the City Personnel Regulations, up to and including dismissal.

B. Authorized Substances: Prescribed medications or drugs taken by an employee under the direction of a licensed physician for treatment of a current specific physical, emotional, or mental condition are permitted as long as an employee’s ability to perform his or her job satisfactorily is not impaired. This also applies to substances having a physiological, psychological, or biochemical effect which are available without a prescription but which are lawfully obtained, possessed, and used in the manner and dosages for which manufactured and sold.

Medication/Substance Reporting: It is an employee’s responsibility to notify her or his supervisor in advance when taking any prescription or nonprescription medicine or any other substance that may impair judgment or job performance or otherwise adversely affect the normal functions of her or his physical or mental abilities. If the supervisor’s judgment is that employee job performance is impaired, the employee will be relieved from duty until such time that the employee can return to satisfactory job performance. Regular employees may use sick leave, if accrued, for the duration of the impairment.

C. Prohibited Substances and Use: Illegal drugs and other controlled substances are identified in Section 202 of the Controlled Substance Act of the United States Code (21 U.S.C. 812). This list includes, but is not limited to, marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration of the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of a prescribed drug by someone other than the person for whom the drug was prescribed.

D. Confidentiality: Confidentiality of all personnel records concerning any imposition of discipline arising from drugs, alcohol, and other controlled substance use will be protected as provided for in the City Personnel Regulations.
III. EMPLOYEE NOTIFICATION/EDUCATION

A. **New Employee Notification:** All new employees will be notified of the drug-free policy in an orientation session at the Personnel Office. They will receive a copy of the policy and will be required to certify that they understand they are responsible for reading, understanding, and complying with the regulations. Certification statement will contain notification that compliance with the policy is a condition of City employment.

B. **Current Employee Notification:** All employees currently employed will be provided a copy of the City’s drug-free policy in their respective departments. Employees will be required to certify that they are aware they are responsible for reading, understanding, and complying with the regulations. Certification statement will contain notification that compliance with the policy is a condition of City employment.

C. **Education:** The Personnel Officer will work with the City Safety Officer, law enforcement and emergency medical personnel, and the City’s Employee Assistance Program counselors to inform employees about the hazards of drug use in the workplace and the availability of assistance for problems through the EAP. This will include such items as regular articles in the employee newsletter, safety films or posters, and presentations by law enforcement and emergency medical personnel and EAP counselors.

IV. EMPLOYER SEARCHES AND INSPECTIONS

The City reserves the right to conduct searches or inspections of all City premises, work areas, desks, or lockers. Any employee found to have alcoholic beverages in an unsealed container or unauthorized drugs in her or his possession while in the performance of her or his job, or has any such substances in her or his work area, may be required to undergo testing for use of drugs, alcohol, and other controlled substances. Such employee may be subject to dismissal even if he or she is not tested or if a subsequent test is negative.

V. DRUG TESTING AND RESULTS

The City requires alcohol and drug testing under the following circumstances:

A. **Reasonable Suspicion:** An employee who exhibits behavior or work patterns which give rise to a suspicion of alcohol, drugs, or controlled substance use, or when evidence has been presented that indicates the employee may be using drugs or alcohol on the job, will be tested for drug use.

B. **Pre-Employment:** Before an employee begins work in a position requiring the performance of safety-sensitive functions as defined below, the candidate will be tested for drug use. The City also reserves the right to pre-employment drug testing for all other City positions. Any candidate whose test indicates the use of illegal drugs or other controlled substances will have the offer of employment withdrawn. Such candidates are ineligible to reapply with the City for a period of 120 days following the date of the test.

C. **Accident Involving Death of Person:** If an employee is involved in an accident while performing a safety-sensitive function, and the accident involves the death of a person, the employee will be tested for the use of illegal drugs and other controlled substances. The time frame is not to exceed eight hours for alcohol testing or thirty-two hours for drug testing.

D. **Accident Involving a Citation:** If an employee is involved in an accident while performing a safety-sensitive function and receives a moving violation citation because of the accident, the employee will be tested for the use of illegal drugs and other controlled substances. The time frame is not to exceed eight hours for alcohol testing or thirty-two hours for drug testing.

E. **Random Testing:** In compliance with 49 CFR, Part 382, employees whose position requires a Commercial Drivers License will be subject to random, unannounced testing using a
scientifically valid method which assures that each covered employee has an equal chance of being selected each time selections are made. Twenty-five percent of such drivers will be randomly tested for alcohol each year. Fifty percent of such drivers will be randomly tested for the use of illegal drugs each year.

F. **Return to Duty:** Any employee who returns to work after having tested positive for either alcohol or illegal drug use will be tested again upon returning to work.

Results of testing positive for the use of alcohol, illegal drugs, or other controlled substances:

A. An employee who tests positive for the use of alcohol, illegal drugs, or other controlled substances may be dismissed immediately in accordance with City Personnel Regulations. Any violator who is not dismissed will be removed from duty and required to undergo evaluation and referral with the City’s Employee Assistance Program. An EAP counselor will provide a written, confidential report and recommendation to the City Personnel Office. As a condition of continued employment, the employee must successfully complete any recommended alcohol or drug rehabilitation program. If a violator does not participate in the recommended program, or if he or she does not complete the program, her or his City employment will terminate immediately.

B. If an employee refuses a test, disciplinary action, up to and including dismissal, will be initiated as if the test had been performed and had indicated the use of alcohol, illegal drugs, or other controlled substance. If an employee undergoes evaluation and chooses not to participate in the recommended program, or if he or she does not complete the program, her or his City employment will terminate immediately.

C. As a condition of continued employment following completion of an alcohol or drug assistance or rehabilitation program, an employee will be required to participate in a program of random follow-up testing which will include a minimum of six follow-up tests over the first 12 months following his or her return to duty. The employee is also subject to unannounced follow-up alcohol, illegal drug, or other controlled substances testing for up to 60 months. Positive indications for the use of alcohol, drugs, or other controlled substances during follow-up testing will be considered grounds for immediate dismissal.

VI. SAFETY SENSITIVE FUNCTIONS

When a City employee is involved in any of the following activities with respect to a City of Durango vehicle which requires the operator to possess a Commercial Drivers License for its operation, the employee is considered to be performing a safety-sensitive function:

A. Any time during which an employee is waiting to be dispatched to a vehicle.

B. Any time an employee spends inspecting equipment on a vehicle or inspecting, servicing, or conditioning a vehicle.

C. All driving time.

D. Any time during which an employee is in a vehicle.

E. All time spent loading or unloading a vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, or being ready to drive a vehicle.

F. When in a vehicle accident involving death, injury, or property damage of any kind, all the time an employee spends following required procedures.

G. All the time spent repairing, obtaining assistance for, or standing by a damaged vehicle.
VII. EMPLOYER NOTIFICATION

A. As a condition of employment, all employees must notify the City Personnel Office in writing of any criminal drug statute conviction for a violation occurring in the workplace no later than five calendar days after such conviction. Disciplinary action will be taken in accordance with the City’s Personnel Regulations, up to and including dismissal.

VIII. VOLUNTARY COUNSELING/REHABILITATION

Employees who voluntarily seek assistance and undergo treatment for problems involving use of alcohol, drugs, or other controlled substances before detection or investigation will not be disciplined solely on the basis of a request for assistance or rehabilitation.