

# CITY OF CRIPPLE CREEK TRANSIT



## TRANSIT DRUG AND ALCOHOL POLICY

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## **I. INTRODUCTION**

The City of Cripple Creek is committed to a safe, healthy and productive work environment for all Employees free from the effects of substance abuse. Drug or Alcohol use may pose a serious threat to health and safety. Abuse of alcohol, drugs, and controlled substances impairs Employee judgment, resulting in increased safety risks, injuries, and faulty decision-making, which may impact the entire organization.

Drug and alcohol testing is mandated by the Federal Transit Administration (FTA) and the U.S. Department of Transportation (DOT) in 49 CFR Part 40, and Part 655, as amended. In addition, drugs are prohibited in the workplace by the "The Drug Free Workplace Act of 1988" located in 20 CFR part 29, see Appendix A of this policy. The purpose of this policy is to establish procedures to support a safety and health program and to comply with minimum federal safety standards for safety-sensitive functions regulated by the Federal Motor Carriers Standards Act (FMSCA).

The City's Drug and Alcohol Policy and Prevention Program have been created to protect both the public and the City's employees. It mandates discipline up to and including termination, depending upon circumstances. At the same time, it offers free substance abuse evaluation services (provided by Profile EAP) and a second (2nd) chance to employees who voluntarily come forward to the City and seek professional rehabilitation services PRIOR to being selected or notified of a pending drug and/or alcohol test. This applies only if the employee has never had a previous positive drug and/or alcohol test. This program is also intended to comply with all applicable federal regulations governing workplace anti-drug and alcohol abuse programs in the transit industry.

## **II. DRUG AND ALCOHOL FREE WORKPLACE**

This Drug and Alcohol Free Workplace Policy is established pursuant to the authority granted by 49 CFR Parts 40 and 655 and the Omnibus Transportation Employee Testing Act of 1991, 49 U.S.C. § 31306, Chapter 440, as amended.

The City of Cripple Creek is committed to providing a safe work environment for our employees, our guests, our community and the public. The abuse of alcohol and drugs is a national problem that impairs the safety and health of employees, promotes crime and harms our community. In order to maintain the highest standards of morale, productivity and safety in our operations, we have instituted a drug and alcohol free workplace policy. Our desire and intent is to encourage any employee with alcohol or drug dependency to voluntarily enter a drug or alcohol rehabilitation program. It is the responsibility of each employee to initiate and obtain assistance before any difficulties with drugs or alcohol affect his or her work. Accordingly:

**EMPLOYEES ARE HEREBY NOTIFIED THAT IT IS A CONDITION OF EMPLOYMENT FOR EACH EMPLOYEE TO REFRAIN FROM REPORTING TO WORK OR WORKING WITH THE PRESENCE OF**

**DRUGS OR ALCOHOL IN HIS OR HER BODY. IF AN EMPLOYEE TESTS CONFIRMED POSITIVE OR REFUSES TO SUBMIT TO A TEST FOR DRUGS OR ALCOHOL, THE EMPLOYEE WILL BE TERMINATED.**

*LAST REVISED 08/13*

### **III. APPLICABILITY**

This policy applies to all City of Cripple Creek employees who hold a Commercial Driver's License (CDL) and utilize it within the parameters of their job description, whose job description includes safety sensitive functions, and all transit system employees performing safety-sensitive functions as defined in 49 CFR Part 40, and Part 655, as amended. The policy extends to include applicants and all other covered employees.

Certain portions, however, apply strictly to "safety-sensitive" employees (i.e. random testing). Employees may fall into either or both of two categories for safety-sensitive employees. The first applies to all employees who maintain a CDL, while the second applies to all transit system employees falling under the FTA definition of "Safety-Sensitive." Initiatives and policies that are in addition to or exceed the FTA and DOT policies are highlighted in bold and underlined.

- **City Definition of Safety-Sensitive for Employees holding a CDL. Under this policy performing a safety-sensitive function means all of the time after a driver begins to work or is required to be ready to work until the time the driver is relieved from work and all responsibility for performing work. Safety-sensitive functions include: (1) All time at the City of Cripple Creek, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the City of Cripple Creek; (2) All time inspecting equipment as required by the law or otherwise inspecting, servicing, or conditioning any city-owned motor vehicle at any time; (3) All time spent at the driving controls of a city-owned motor vehicle in operation; (4) All time, other than driving time, in or upon any city-owned motor vehicle; (5) All time loading or unloading a 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 for shipments loaded or unloaded; and (6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.**
- FTA Definition of Safety-Sensitive Employees. Refers only to employees who perform job duties related to the safe operation of mass transit service including (1) The operation, (2) Dispatch and control, (3) Maintenance, (4) Supervisors who perform a safety-sensitive function and (5) Any employee whose job requires he/she holds a Commercial Driver's License. A list of "safety-sensitive" employee job titles are provided in Part IV of this policy. The City is dedicated to ensuring the fair and

equitable application of this substance abuse policy. Supervisors, managers and city officials are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor, manager and/or city official who knowingly disregards the requirements of this policy or who is found to be deliberately misusing the policy in regards to subordinates will be subject to disciplinary action up to and including termination.

#### **IV. POLICY STATEMENT**

The City of Cripple Creek is committed to providing a safe work environment that is free from the effects of drugs and alcohol in order to operate and maintain a public works department and transportation system that is safe and efficient for our employees, passengers, and the general public. **This policy covers both FTA and FMCSA guidelines, which are both federal programs. The Federal Government does not recognize the State of Colorado's position on the legalization of marijuana, which remains a Schedule I drug and is therefore considered illegal within the framework of federally funded programs. Persons employed by the City of Cripple Creek who fall into either of these programs and/or persons applying for positions with City, are held to this standard when considering drug and alcohol testing.**

The City has a policy that prohibits the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance in the workplace or while on duty status.

The purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace and, to reduce the probability of accidents or incidents related to the use and/or abuse of alcohol and drugs by employees.

It is the employee's responsibility to know and understand the City's Drug and Alcohol Policy and Prevention Program. As a condition of employment, all employees must comply with the terms of this policy, as violation or failure to comply will result in termination of employment.

This policy incorporates all of the requirements and procedures set forth by federal regulations 49 CFR part 40, 655 of the Department of Transportation (DOT), 49 CFR part 382 of the Federal Motor Carrier Safety Administration (FMCSA), and the "Drug Free Workplace Act" as amended.

The City of Cripple Creek has established an Employee Assistance Program (EAP), as explained in Part XIII of this policy. The EAP, among the many other services, offers confidential treatment for drug and/or alcohol abuse.

## V. SAFETY- SENSITIVE EMPLOYEES

The Department of Transportation and the Federal Transit Administration require all safety-sensitive employees to be tested for drugs and alcohol under the Omnibus Transportation Act of 1991. **Additionally, the City has extended this policy to include employees who hold a Commercial Driver's License and/or perform safety-sensitive functions as defined in Section II of this policy.**

Safety-Sensitive function means any of the following duties as defined by FTA 49 CFR Part 655:

- Operating a revenue service vehicle, including when not in revenue service;
- Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver's License (CDL);
- Controlling dispatch or movement of a revenue service vehicle;
- Maintaining a revenue service vehicle or equipment used in revenue service;
- Carrying a firearm for security purposes.

Safety-sensitive employees are defined as:

- Bus-Operators
- Supervisors/Dispatchers of the transit program
- Radio Dispatchers
- Mechanics

**Safety-Sensitive functions as defined by the City of Cripple Creek include:**

- **Time spent at a City of Cripple Creek facility when ready for duty or awaiting instructions;**
- **All time spent working on City-owned vehicles;**
- **All time spent driving a City-owned vehicle;**
- **All time, other than driving, that is spent on a City-owned vehicle;**
- **All time loading or unloading a 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 for shipments loaded or unloaded; and**
- **All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.**

**Safety-Sensitive employees as defined by the City of Cripple Creek include:**

- Any employee who holds a CDL and utilizes it within the performance of his/her job duties;
- Any employee who holds a CDL and has begun his/her shift or who is in “ready” status with regard to beginning work.

**VI. RESPONSIBILITIES**

All employees are required to refrain from using illegal drugs as prescribed in the Federal Government’s schedule of illegal substances. In addition, employees must not consume alcohol while performing a safety-sensitive function, or up to four (4) hours prior to performing the safety-sensitive function, or while on-call, as explained in Part VII of this policy. Employees at all levels of the organization are responsible for ensuring adherence to this policy. Managers and supervisors will be accountable for both the application of the policy and the consistency of its enforcement. The Human Resources Director, who also serves as the Drug and Alcohol Program Manager (DAPM) or designee, will be responsible for answering questions and ensuring compliance to this policy.

**VII. CONFIDENTIALITY**

Confidentiality will be maintained throughout the drug and alcohol screening process. Centura Centers for Occupational Medicine shall employ a Medical Review Officer (MRO) who will receive the laboratory results of the testing procedure. The MRO shall be a licensed physician and have knowledge of substance abuse disorders and appropriate medical training to evaluate positive test results, medical history, and any other relevant biomedical information. The MRO shall review all medical records made available by the tested individual when a confirmed positive test could have resulted from legally prescribed medication.

Test results are received and reviewed by the Certified MRO and then forwarded to the Designated Employer Representative (DER). In the case of positive drug and/or alcohol test results, the MRO immediately notifies the DER by phone so the employee may be removed from performance of safety-sensitive duties. Only authorized personnel who must be involved in a case will be given information regarding test results, and then, only on a need to know basis. In grievance, hearing, lawsuit or other action involving the employee, the employer may release relevant information to the decision-maker, and to those who need to know the information to assist with the case. Such information may also be released to representatives from state or federal agencies when required.

**VIII. PROHIBITED SUBSTANCES**

The presence of any prohibited substances in an employee’s system is forbidden during working time. “Prohibited Substances” addressed by this policy include the following:



### *Prohibited Substances*

The use at any time of prohibited substances identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 100.11 through 1300.15, is prohibited. This includes:

- Marijuana
- Phencyclidine (PCP)
- Cocaine
- Opiates
- Amphetamines

### *Alcohol*

Alcohol use means the consumption of any beverage, mixture, or preparation, including any medication containing alcohol. The ingestion of alcohol up to four (4) hours before the performance of a safety-sensitive function, or while the safety-sensitive employee is on-call is prohibited. The ingestion of alcohol for up to eight (8) hours following an accident by any employee involved in the accident is prohibited, unless the employee has already performed a post-accident alcohol test in accordance with this policy. Alcohol testing can be conducted just before, during or just after performing a safety-sensitive function.

## **IX. TESTING AND COLLECTION PROCEDURES**

A prohibited substance may be detected through a drug and/or an alcohol test following the safeguards set forth by the Department of Transportation in 49 CFR Part 40, as amended. These safeguards are mandated to assure protection, integrity, validity and the accuracy of the results.

Testing requirements call for urine tests for five drugs (Marijuana, Phencyclidine (PCP), Cocaine, Opiates and Amphetamines) and breath tests for alcohol. A safety-sensitive employee may be randomly tested for these five prohibited drugs at any time while on duty. Other testing includes: post-accident, reasonable suspicion, return-to-duty/follow-up and pre-employment. This is subject to change consistent with alterations to 49 CFR Part 40, as amended. All testing will be conducted in a manner which assures a high degree of accuracy and reliability consistent with the DOT safeguards set forth in 49 CFR Part 40, as amended. Drug testing will be conducted in laboratories certified by the National Laboratory Certification Program as listed on the Substance Abuse and Mental Health Services Administration (SAMHSA), Department of Health and Human Services (HHS) notice located at 59 FR 39774 (see Appendix B for specific laboratories used by the City). Collection may be observed if there is reason to believe that a particular individual may alter or substitute the specimen to be

provided, or as required by the MRO, as further described in 49 CFR Part 40.25 (e) (2) (i) – (iv).

### *Drug and Alcohol Testing Collection Process & Procedures*

The Drug and Alcohol Testing Collection Process and Procedures will follow all guidelines and regulations set forth in 49 CFR Part 40, as amended. A complete copy of the regulations is available for review through the City of Cripple Creek's Designated Employer Representative; refer to contact information in section XVII of this policy.

### *Split Sample*

The collector divides the specimen into a 30 ml primary specimen and a 15 ml split specimen (split sample). "Specimen A" bottle seal is placed over the 30 ml bottle and the "Specimen B" seal is placed over the split sample bottle. The specimen donor then initials both seals. If the sample tests positive during the Gas Chromatography-Mass Spectrometry (GC/MS), or is determined by the laboratory to be adulterated or substituted, and the MRO verifies the laboratory findings after review with the employee, the employee may request a test of the split specimen. Such a request must be made in writing or verbally to the Certified MRO within 72 hours of the time the MRO provides the notification to the employee that the test is verified positive, adulterated or substituted.

The second laboratory is only required to run a confirmatory test for the specific substance, which appeared in the primary sample. The results of this test must be immediately forwarded to the MRO. The MRO will notify the City of Cripple Creek and the employee of the results. If the split sample reveals no measurable presence of the drug in question, the former positive test will be canceled.

### *Role of the Certified Medical Review Officer (MRO)*

A Certified MRO is required to verify positive test results and facilitate the split sample process. A Certified MRO is defined by the FTA as: a licensed physician responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders. The Certified MRO shall communicate all verified positive test results to the employee and to the City.

### *Return To Work Pending Test Results*

An employee must await his/her negative test clearance under the following circumstances: return to work after a drug-and-alcohol-related leave, reasonable suspicion, pre-employment and transfer to safety-sensitive position.

### *Positive Test*

The City will be notified by the Certified MRO of a verified positive drug test result. A verified positive test means a prohibited substance appearing in the

employee's urine specimen which surpasses the thresholds established by the Department of Health and Human Services (HHS) as adopted by the Department of Transportation (DOT) in 49 CFR Part 40, as amended. The City will be notified by the Breath Alcohol Technician (BAT) of an alcohol confirmation test result of 0.02 or more.

## **X. TYPES OF TESTING**

Testing for drugs and alcohol will be conducted in the following circumstances:

### *Pre-Employment*

All applicants are required to undergo pre-employment drug testing following the offer of employment. This requirement includes all candidates for employment. Any employee who has not performed safety-sensitive functions for 90 days or more and was removed from the random drug pool must also undergo a pre-employment drug screen with a verified negative result. Employees are required to undergo pre-employment drug testing prior to transfer into a safety-sensitive position.

A negative drug test result must be received and verified by the Certified MRO before employment begins or a transfer is allowed. If for any reason a test is cancelled, the candidate must retake and produce a verified negative result. An applicant with a dilute negative test result will be required to retest. If the covered employee or applicant has previously failed or refused testing, the covered employee or applicant must present to the employer proof of successfully having completed a referral, evaluation and treatment plan as described in 49 CFR part 655.41. In addition, a verified negative drug test result must be received.

### *Reasonable Suspicion*

All employees are required to submit to drug and alcohol testing when at least one supervisor or manager who is trained in detecting the signs and symptoms of drug use and alcohol misuse reasonably questions the employee's fitness for duty. Reasonable suspicion will be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. Reasonable suspicion testing may be conducted on any employee exhibiting signs and symptoms of drug or alcohol use while on duty. A confidential reasonable suspicion documentation form must be completed by a transit supervisor. These are available through the City's DER.

### *Return to Duty*

When recommended by the Substance Abuse Professional (SAP), a return to duty test is required when a safety-sensitive employee or covered employee

returns from a drug and/or alcohol treatment program, **or when the City is made aware of an employee's treatment program as a result of self-referral.**

### *Follow-Up*

A safety-sensitive or covered employee who returns to duty after a substance-abuse related leave or after an evaluation made by a SAP is subject to unannounced follow-up testing. The frequency and duration of such testing will be solely determined by the SAP, however, the City will determine and schedule the days for follow-up testing. The duration could extend up to 60 months with a minimum requirement of at least 6 tests within the first 12-month period.

### *Post-Accident*

This policy covers any accident involving either a revenue service vehicle, or a non-revenue service vehicle that requires the operator to hold a CDL. However, a post-accident test may be stayed while an employee receives medical attention. No employee shall leave the scene of an accident without prior approval unless it is medically necessary or in order to obtain assistance. If an employee fails to remain readily available for testing without good reason, he/she may be deemed to have refused to submit to testing.

#### a) Fatality

Post-accident testing is required after accidents involving a fatality. As soon as possible, each surviving employee operating the transit vehicle at the time of the accident shall be tested. An employee will also be tested if his/her performance could have contributed to the accident, as determined by a supervisor using the best information available at the time of the decision.

#### b) Bodily Injury or Disabling Damage

Post-accident testing is also required after an accident involving bodily injury requiring immediate medical attention away from the scene, or after an accident involving a vehicle that suffers disabling damage. Such testing is required of all employees operating a vehicle at the time of the accident if they cannot be discounted as contributing to the cause of the accident. As in the case of fatal accidents, other employees may be tested if a supervisor concludes, based on the best information available at the time, which employee's performance could have contributed to the accident.

#### c) Other Requirements

For post-accident testing, a urine specimen for drug testing must be collected as soon as possible but no later than 32 hours after the accident. The alcohol test should be administered as soon as possible. Documentation must begin if the testing isn't completed within 2 hours of the accident. All attempts to test for alcohol must cease after 8 hours from the time of the accident.

## *Random*

Random testing for drugs and alcohol will be performed on all employees filling safety-sensitive positions within FTA, FMCSA, and City of Cripple Creek guidelines. Such random testing will be conducted at a minimum annual rate of 10% of the safety-sensitive workforce for alcohol and 25% for drugs, or at the rates set forth by the FTA in Part 655, as amended. **For employees falling under City or FMCSA, Part 382, random testing will occur at a rate of 10% of the safety-sensitive workforce for alcohol and 50% for drugs.** Employees will be selected based on a computer-generated program. The selection of employees for random testing is made by a scientifically valid method and each covered employee has an equal chance of being tested each time selections are made. Random test dates are spread reasonably throughout the year (January-December) and are unannounced. Employees selected for random drug and/or alcohol testing are notified by a supervisor and must proceed immediately to the testing site. Employees are on duty and will be compensated at their applicable rate for the time spent in undergoing such random testing.

Please note: Random and reasonable suspicion alcohol testing may occur anytime during which an employee is performing a safety-sensitive function, just prior to performing a safety-sensitive function or just after the employee has ceased performing a safety-sensitive function. Employees may be required to test prior to their shift, during or immediately after their shift. An employee may be excused from an after duty test ONLY if that employee has submitted PRIOR written notification to the City of an after work obligation (i.e. doctor appointment, child care, etc.) It is the employee's responsibility to notify the City in advance. There will be no exceptions and refusal will result in termination. Random and Reasonable Suspicion drug testing may occur anytime an employee is performing a safety-sensitive function or while on-duty.

In addition, there is no discretion on the part of management or supervision in the selection and notification of individuals for testing.

## **XI. PRESCRIPTION DRUG POLICY AND PROCEDURE**

The following policy applies to all safety-sensitive employees as defined by the City of Cripple Creek and is in addition to FTA regulations.

### **Reporting of Prescribed and Over the Counter Drugs**

In the interest of protecting employees, customers and others, safety-sensitive employees are required to ensure that any prescribed or over the counter drug or any combination of drugs being taken will not adversely impact their job performance.

Employees shall, when drugs are prescribed by a medical professional, inquire of the prescribing professional whether the drug prescribed has

any side effects which may impair the employee's ability to safely perform the employee's job duties. If the answer from the medical professional is yes, the employee shall obtain a statement from the medical professional indicating any work restrictions and their duration. The employee shall present that statement to his/her supervisor before going on duty.

Employees shall, when using over the counter medications, read all warning labels and refrain from using medications that contain alcohol, cause drowsiness, and/or negatively impact the employee's ability to drive safely or operate equipment before beginning his/her shift. If there is any question as to the effects of the over the counter medicine on the employee's ability to carry out the safety function, the employee must contact his/her physician for further guidance.

## **XII. ZERO TOLERANCE POLICY**

The penalty for any confirmed violation of this policy or the "Drug Free Workplace Act" is subject to immediate termination of employment.

## **XIII. POLICY ENFORCEMENT/CONSEQUENCES**

All positive results require a referral to the SAP and immediate termination of employment. Violations include, but are not limited to the following:

### *Pre-Employment Testing*

Any applicant who tests positive for drugs and/or alcohol will not be eligible for hire and must wait one year to be reconsidered. To be reconsidered, an applicant must present to the City of Cripple Creek, proof of successfully completing any Certified SAP treatment requirement. Any applicant who fails a second pre-employment test will be permanently banned from employment at the City of Cripple Creek. A safety-sensitive employee who has not performed a safety-sensitive function for 90 days or more, and has not been in the random testing pool for such period and tests positive for their pre-employment drug test will be terminated.

### *Reasonable Suspicion Testing*

Any employee who tests positive for drugs and/or alcohol for reasonable suspicion will be immediately terminated.

### *Return to duty/Follow-up Testing*

Any employee who tests positive for drugs and/or alcohol for a return to duty/follow-up test will be terminated.

### *Post-Accident Testing*

Any employee involved in an accident that tests positive for drugs and/or alcohol will be immediately terminated, regardless of the preventability of the accident.

### *Random Testing*

Any employee who tests positive for drugs and/or alcohol for random testing will be immediately terminated from his/her safety sensitive position.

### *Negative Dilute Specimen*

If the MRO is informed that a negative drug test was dilute, the employee will be directed to take another test with minimal advance notice and the result of the second test – not that of the original test becomes the test of record. No further testing is required unless requested by the Certified MRO.

### *Refusals/Test Tampering/Non-Compliance*

An employee must follow the instruction and directions of all City Supervisors and medical personnel in the testing process. A refusal means that an employee fails to provide a drug and/or alcohol test sample as required by this policy without a valid medical explanation from a doctor chosen by the City, or engages in conduct that obstructs the testing process.

Refusals also include, but are not limited to, the following: refusal to take the test, inability to provide sufficient quantities of breath or urine to be tested without a valid medical explanation from a doctor acceptable to the City; tampering with or attempting to adulterate the specimen or collection procedure or the MRO's verification of an adulterated or substituted test is also considered a refusal; failing or declining to take a second test as directed to by the City or collector; failure to arrive at the collection site at all or in a timely manner; failure to remain at the collection site until the testing process is completed; failure to undergo a medical examination or evaluation, as directed by the Certified MRO as part of the verification process, or as directed by the DER; refusal to sign Step #2 on the USDOT Alcohol Breath testing form; failing to permit an observed or monitored test; possessing or wearing a prosthetic or other device used to tamper with the process; or leaving the scene of an accident without a valid reason as determined by the City before the tests have been conducted. A refusal constitutes a violation of the City's policy and will be subjected to immediate termination.

### *Intoxication/Under the Influence*

Reporting to work intoxicated or under the influence of alcohol or drugs (including all substances defined in this policy) is absolutely forbidden. Any employee who reports to work intoxicated or under the influence will be terminated. An employee who is called into work unexpectedly has a responsibility to inform his/her supervisor immediately, if he/she is unfit for duty. Otherwise, he/she will be treated the same as any other regularly scheduled or on-call employee.

### *Alcohol Concentration*

An employee who is on duty, tested, and has an alcohol concentration of 0.02-0.039 will be immediately removed from duty for 8 hours. If the employee has an alcohol concentration of 0.04 or greater, the test will be considered a positive alcohol test and the employee will be terminated.

Any safety-sensitive employee required to take a post-accident alcohol test is prohibited from alcohol use for 8 hours **(24 hours for employees falling under the City definition of Safety-Sensitive and employees covered under FMSCA)** following the accident or until the employee undergoes a post-accident alcohol test, whichever occurs first. Any employee who is subject to post-accident testing yet fails to remain readily available for such testing (including notifying designated employer representative (DER) of his/her location if he/she leaves the scene of the accident prior to submission to such test) is deemed to have refused to submit to testing and will be terminated. Safety-sensitive employees are prohibited from consuming alcohol up to four (4) hours before their work shift. Any employee found consuming alcohol within four (4) hours of his/her work shift will be subject to discipline up to and including termination. (This does not imply that an employee's system will be free of alcohol after four (4) hours of cessation). Refer to Section V "Responsibilities" for applicability for Public Works Department employees, CDL holders, and bus drivers.

### *Manufacture, Trafficking, Possession and Use*

The use, sale, manufacture, distribution or possession of drugs or alcohol while on the job, on City property, or while conducting City of Cripple Creek transit business will result in immediate termination.

### *Criminal Drug Conviction at Workplace*

Any employee who fails to notify the City of Cripple Creek of any criminal drug conviction or drug-related offense will be subject to immediate termination. This notification must be provided by the fifth day after such offense. Any employee convicted of such an offense will be terminated.

Please note: Circumstances not covered under this policy will be dealt with on a case-by-case basis.

## **XIV. EVALUATIONS, REFERRALS AND REHABILITATION**

### *Certified Substance Abuse Professional (SAP)*

Any safety-sensitive employee who tests positive for the presence of illegal drugs above the minimum thresholds set forth in 49 CFR Part 40, as amended, or who tests at 0.04 or greater on an alcohol confirmation test or who refuses to be tested will be immediately terminated. Even though discharged, the employee will be given the number of our SAP and our EAP services. A SAP (Certified SAP) is



a licensed or certified physician, psychologist, social worker, employee assistance professional, or addiction counselor certified by one of the agencies in Part 40.281 (a)(5) with knowledge of and clinical experience in the diagnosis and treatment of drug and/or alcohol-related disorders. Assessment by a Certified SAP does not shield an employee from termination. See Appendix B for contact information for our Substance Abuse Professional and EAP Services.

### *Employee Assistance Program (EAP)*

An Employee Assistance Program (EAP) is offered to City employees and their families at no cost to the employee. This program includes professionals qualified in the area of substance abuse evaluations and referrals. The EAP offers counseling, evaluations, and referrals to rehabilitation programs. Counselors are available 24 hours a day.

## **XV. EDUCATION, TRAINING AND LITERATURE**

All safety-sensitive employees are required to attend at least 60 minutes of training on the effects of prohibited drug use and additional training on the affects of alcohol misuse. All managers responsible for covered employees are required to attend one hour of training for reasonable cause determinations for alcohol and one hour of reasonable cause determination training for drugs, for a total of two (2) hours. All employees attending such training will be required to sign an attendance sheet/certification form.

Drug and alcohol substance abuse prevention literature is available at a number of different sources. Through the City, employees can receive substance abuse literature from our Human Resources Department and through the Employee Assistance Program. Additionally, all EAP Professional and Personal Workshop information will be posted on city bulletins. Additional materials will be made available at the drug and alcohol prevention courses and through our training programs as they occur.

Outside of the City, employees may access national or local hotlines and help-lines, support group phone directories, treatment facilities, and many other resources for substance abuse information and guidance. Any employee concerned about his/her substance or alcohol usage should immediately seek assistance.

## **XVI. RECORDS RETENTION**

The City will maintain records of its Drug & Alcohol Program for a minimum period as follows:

Five (5) Years: All verified positive drug and alcohol test results, documentations of refusals to test, covered employees referral to substance abuse professional (Certified SAP), copies of the annual Management Information System (MIS) reports submitted to FTA, negative drug and alcohol testing results and all

records related to the collection process and employee training. Such records will be kept in a secured area with controlled access.

All covered employees are entitled, upon written request, to obtain copies of his/her drug and alcohol testing records, provide information to dispute the results, and have access to any pertinent records such as equipment calibration records and laboratory certifications.

## **XVII. AT-WILL EMPLOYMENT**

**Nothing in this policy is to be construed to prohibit the City of Cripple Creek from maintaining a safe work environment or imposing disciplinary actions as it deems appropriate for reasons of misconduct or poor performance, regardless of whether the misconduct or poor performance arises from drug or alcohol use. Such disciplinary actions may include termination of employment. Employment is at-will and subject to termination by the City of Cripple Creek or the Employee at any time, with or without notice and with or without cause.**

## **XVIII. CONTACT INFORMATION**

Questions or for more information regarding this policy or any other aspect of the City's drug-free and alcohol-free workplace programs should be directed to the following Designated Employer Representative (DER):

Name: Carol Stotts, HR/Risk Management Director  
Location: 337 E. Bennett Avenue, Cripple Creek, Colorado 80813  
Phone: 719-689-3469  
Fax: 719-689-3705  
Email: [cstotts@cripple-creek.co.us](mailto:cstotts@cripple-creek.co.us)

## **XIX. POLICY APPROVAL AND ACCEPTANCE**

Ray White  
City Administrator

City Council Acceptance

## **XX. APPENDICES**

- A. POLICY ON A DRUG-FREE WORKPLACE
- B. COLLECTION SITES, CERTIFIED MRO, CERTIFIED SAP AND EAP CONTACT INFORMATION
- C. ACKNOWLEDGEMENT AND RECEIPT FORM
- D. DRUG AND ALCOHOL TESTING NOTIFICATION FORM
- E. FTA SUBSTANCE ABUSE MANAGEMENT

## **Appendix A:**

### **POLICY ON A DRUG-FREE WORKPLACE**

The City of Cripple Creek fully supports the Drug Free Workplace Act of 1988. The City of Cripple Creek, as a matter of operating policy, requires a workplace that is free from the effect, of drugs, alcohol or other job-impairing substances. This requirement is necessary in order that we operate and maintain a transportation system that is safe and efficient for our customers and our employees as well as motorists and pedestrians.

The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance in the workplace or while on duty status is prohibited. Violation of this rule will result in discipline that may include dismissal. In certain circumstances, an employee may be required to participate in a rehabilitation program.

Because the City of Cripple Creek is a recipient of federal funds, employees are required to notify their department head or, in his/her absence, the human resources director of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such a conviction. The City of Cripple Creek is required to notify the federal sponsoring agency of any such conviction within ten days after being notified of the conviction. Within thirty days of the notice of conviction, the City of Cripple Creek is required to take one of the following actions with respect to any employee so convicted:

1. Taking appropriate personal action against the employee, up to and including dismissal; or
2. Requiring such an employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement or other appropriate agency.

An Employee Assistance Program (EAP) is available to all employees and family members on a free, confidential basis. The EAP will provide help in dealing with substance abuse problems. The City of Cripple Creek will provide, to the maximum extent practicable, a leave of absence for those who voluntarily enter a substance abuse treatment program through the EAP.

## **Appendix B:**

### **Collection Sites, Certified MRO, Certified SAP, and EAP Contact Information**

#### **COLLECTION SITES**

Centura Centers for Occupational Medicine  
3030 N. Circle Dr. Suite 201  
Colorado Springs, CO 80909  
Ph: 719-475-9496

OR

#### **PENROSE URGENT CARE AT CRIPPLE CREEK**

1101 Teller County Road 1  
Cripple Creek, CO 80813  
Ph: 719-776-4300

OR

#### **PENROSE HOSPITAL EMERGENCY ROOM**

2222 N. Nevada Ave.  
Colorado Springs, CO 80907  
Ph: 719-776-5000

#### **CERTIFIED MEDICAL REVIEW OFFICER (MRO)**

Stephen J. Kracht, D.O.  
PO Box 25903  
7500 W 110th St Suite 500  
Overland Park, KS 66225  
Ph: 888-382-2281  
Fax: 913-469-4029

#### **CERTIFIED SUBSTANCE ABUSE PROFESSIONAL (SAP)**

Profile EAP  
961 East Colorado Avenue  
Colorado Springs, CO 80903  
Ph: 719-634-1825  
Ph: 800-645-6571

#### **CERTIFIED EMPLOYEE ASSISTANCE PROGRAM (EAP)**

Profile EAP  
961 East Colorado Avenue  
Colorado Springs, CO 80903  
Ph: 719-634-1825  
Ph: 800-645-6571

## **Appendix C:**

### **ACKNOWLEDGMENT AND RECEIPT**

I have received a copy of the City of Cripple Creek's Transit Drug and Alcohol Testing Policy and understand that in order to continue my employment with the City of Cripple Creek, I must abide by the terms of this policy.

I also verify that I have received information on the affects of alcohol and controlled substances on my health, work and personal life, signs and symptoms of a problem and available methods of intervening when a problem is suspected.

**I UNDERSTAND THAT THIS POLICY IN NO WAY MODIFIES MY STATUS AS AN AT-WILL-EMPLOYEE AND IN NO WAY IMPLIES, INFERS, OR GUARANTEES MY CONTINUED EMPLOYMENT FOR ANY DEFINITE TERM AND THAT I MAY BE DISMISSED AT THE DISCRETION OF THE CITY FOR OTHER REASONS THAN FAILING TO FOLLOW THE TERMS OF THIS POLICY.**

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**Employee's Signature**

---

**Date**

---

**Employee's Name Printed**



- Was there disabling damage to any of the involved vehicles?

Yes                  No

- Was the employee tested within two (2) hours of accident:

Yes                  No

If no, provide detailed explanation:

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Can the employees' conduct be completely discounted as a contributing factor:

Yes                  No

Comments/Notes:

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\_\_\_\_\_  
Supervisor's Signature

\_\_\_\_\_  
Date



## Appendix E:

### FTA SUBSTANCE ABUSE MANAGEMENT

Pursuant to Section 40.25(j)- "As the employer, you must also ask the employee whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past two years."

#### All Applicants:

During the last two years have you tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which you have applied for employment, but did not obtain?

YES

NO

\_\_\_\_\_  
PRINT LAST NAME

\_\_\_\_\_  
FIRST

\_\_\_\_\_  
MI

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
HUMAN RESOURCES REPRESENTATIVE

\_\_\_\_\_  
DATE