

POLICY & PROCEDURE		
	<b>Drug and Alcohol Use</b>	
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The City of Duluth values its employees and recognizes the importance of a safe and healthy work environment. The City of Duluth firmly believes that the use of illegal drugs and misuse of legal drugs, including alcohol, is a source of danger in the workplace and a threat to the City's goal of maintaining a productive and safe work environment. All City employees have an obligation to be physically and psychologically fit to do their jobs. Employees who use illegal drugs and/or abuse alcohol or legal drugs tend to be less productive, less reliable, more prone to accidents, and more prone to greater absenteeism, resulting in the potential for increased accidents, costs, and risks to themselves, their co-workers, and the community. The City desires to provide a safer workplace by eliminating the hazards to health and safety created by alcohol and drug abuse. Therefore, the City of Duluth has instituted a zero-tolerance policy in order to create and maintain a drug- and alcohol-free workplace.

The City focuses on the prevention, identification, and treatment of chemical dependency among its employees. Any employee who feels that he/she has developed an addiction to, dependence upon, or problem with alcohol or drugs, legal or illegal, is encouraged to seek assistance. The City is prepared to encourage and support employees in need of assistance to overcome problems related to drugs and/or alcohol through its Employee Assistance Program (EAP). The EAP provides confidential services to employees who seek help in dealing with drug and/or alcohol abuse or for other matters requiring confidential counseling. Further information about the EAP is available in the Employee Benefits Handbook and in the Employee Assistance Program Policy. In most cases, normal City benefits such as sick leave and medical insurance are available to assist with the treatment process.

**POLICY STATEMENT**

**The unlawful manufacture, distribution, dispensation, possession or use of alcohol or drugs is prohibited by any employee or other person on City premises, at any worksite, or in or around any City vehicles, equipment or machinery, and by any employee who is on duty, or on a break and expected to return to duty. Employees in violation of this policy will be subject to discipline, up to and including termination of employment.** For purposes of this policy, the term "drug" includes alcohol, illegal drugs and inhalants, and prescription and over-the-counter drugs when not taken as directed. The terms "use" and "possession" include being under the influence of or having alcohol or drugs or their metabolites in one's body. This policy also applies to independent contractors hired by the City to work on City premises or work sites.

**Exceptions**

Exceptions to this policy include the following:

1. A police officer, in accordance with department policy and when such use or possession is necessary in connection with the investigation of illegal activities.
2. When consumption of alcohol is authorized by the employer as part of a bona fide job responsibility. In such instances, the employee must exercise sound judgment concerning the amount of alcohol consumed and is prohibited from driving a City vehicle following alcohol consumption.
3. When City premises are let to others for the purpose of holding a social event.

**Use of Drugs as Part of a Medical Treatment Program**

Any employee who is using drugs as part of a medical treatment prescribed by a physician must consult with their physician to ensure that they are "fit for duty" and able to perform work in a safe and productive manner. Employees not regarded as "fit for duty" must immediately notify their supervisor. Failure to notify the supervisor of such use will be considered a violation of this policy, and the employee will be subject to discipline. The employee may be required to submit to a "fitness for duty" evaluation by the City's medical advisor in accordance with the [Sick Leave & Return to Work](#) policy. Any employee deemed not fit for duty will be offered alternate work if approved by the physician, or if unavailable, be allowed to utilize sick leave in accordance with the "[Sick Leave & Return to Work](#)" policy.

**Emergency Call-Ins**

Employees who are called in to work during an unscheduled period must inform their supervisor at the time of the call if they have ingested drugs or alcohol. In such cases, they will be excused from duty. Employees who report to work for an unscheduled call in and begin working are subject to discipline, up to and including termination, for working under the

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influence of drugs and alcohol.

### **Chemical Testing**

Drug and alcohol testing will be conducted under the following circumstances:

1. **Job Applicants** : All job applicants who have received a conditional offer of employment for a regular, provisional, or substitute job, or for specified temporary jobs, will be required to undergo testing. Applicants must be given a copy of this policy and complete the "[Chemical Test Form](#)" prior to testing. If an applicant fails to appear for the test at the scheduled time, the absence will be treated as a positive test result and failure to properly apply for employment. **Any applicant who tests positive for drugs or alcohol will not be hired**, unless the result was due to prescription or over-the-counter medication at a therapeutic level which would not affect job performance. Current employees who apply for a promotion or transfer from a non-safety sensitive position to a safety sensitive position will also be required to submit to and pass a chemical test prior to being appointed to the new position. A positive test result will result in a withdrawal of the employment offer and removal of the employee's name from the eligible list.
2. **Random testing**: Employees who hold safety-sensitive positions, as defined by the Department of Transportation and the Minnesota Office of Pipeline Safety regulations, are subject to random chemical testing.
3. **Reasonable suspicion**: Testing may occur under the following circumstances:
  - a. The supervisor has probable cause to believe that the employee is under the influence of drugs and/or alcohol. Training will be provided to supervisors to aid in identifying signs that employees may be under the influence of drugs/alcohol, and assistance in that determination is available from Human Resources.
  - b. The supervisor has a reasonable suspicion that the employee has violated this policy regarding the use, sale, transfer or possession of drugs or alcohol on the job or at a job site.
  - c. The employee has caused or sustained a personal injury in a work related accident, and there is reason to believe that the employee was under the influence of drugs and/or alcohol.
  - d. The employee was operating a vehicle or other equipment involved in a work-related accident. (Follow the [Accident/Incident Reporting Policy](#) and the [Motor Vehicle Operations Policy](#))
4. **Treatment Program testing**: Any employee who has been referred to a chemical dependency treatment program as a result of a violation of this policy may be required to submit to random testing without notice during the evaluation or treatment period and for two years after successful completion of treatment.

### **Procedure For Suspected Policy Violations**

1. An employee who is aware of a violation must report his/her observations to the supervisor, or if uncomfortable reporting to the supervisor, the Equal Opportunity Representative (EOR). Information reported to the EOR will be forwarded to the supervisor for investigation.
2. The supervisor, upon reasonable suspicion of a violation based on observations or reports, must inform the division manager and conduct and document in writing a thorough and discreet investigation of the facts. Witness corroboration should be obtained if possible. All documentation must remain confidential.
3. If the suspected violation involves the possession, sale or transfer of illegal drugs, the investigator must immediately contact the Police Department.
4. The suspected policy violator must cooperate with the supervisor's investigation of the facts, or be subject to discipline. All interviews and meetings with the employee must be done privately with a witness present, and if requested by the employee, with a union representative present.
5. If the investigative evidence supports a policy violation, and the supervisor believes that drugs and/or alcohol are currently in the employee's body, he/she must:
  - a. Record the behavior which has led him/her to believe the employee is currently under the influence of drugs or alcohol.
  - b. Complete the "[Employee Chemical Test Request](#)" form.
  - c. With a witness present, provide the employee with a copy of this policy and inform the employee that he/she will be chemically tested to determine whether alcohol, drugs, or their chemical by-products are in the employee's body.
  - d. Inform the employee that he/she has the right to refuse testing, but that refusal to test will be considered the same as a positive test result and as a serious and gross incident of subordination that will result in disciplinary action.

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- e. Immediately contact the current “[Chemical Testing Facility](#)” to arrange for the proper chemical test, and notify the Human Resources Manager that the test will occur.
  - f. Have the employee complete the “[Chemical Test](#)” form.
  - g. Bring the employee to the test site, and, if the test result is positive, to his/her residence following testing. The police should be called for assistance if the employee is impaired to the point that there is a risk of danger or harm to anyone.
6. Any employee who in good faith based on reasonable suspicion or observation reports an alleged violation of this policy, or any supervisory or managerial employee who investigates or takes action in good faith, shall not be harassed, retaliated against, or discriminated against in any way for making reports, participating in the investigation, or taking reasonable action as a result of the investigation.

### **Testing Procedure**

All chemical testing will be conducted by a certified laboratory, which will comply with current state and federal statutes. Chain of custody safeguards will be strictly followed to maintain the integrity of the testing process. The employee must provide verifiable picture identification at the time of specimen collection. Employee tampering or attempting to tamper with the specimen or collection procedure, or failing to produce an adequate test sample without satisfactory reason, will be treated as if they had tested positively. The lab will conduct a second confirmatory test of any sample that produces a positive result on the initial test. A blood alcohol test will be considered positive if the detected concentration is .01 grams percent or greater. Initial screening tests and confirmatory tests are paid for by the City.

The lab must report a negative test result to the Human Resources Division within three working days of the test, and a positive test result within three working days of the confirmatory test. All positive samples must be retained by the lab for six months. Within three days of receipt of a test result, Human Resources must send a completed “[Notice of Test Result](#)” form to the employee. All testing results will be kept confidential and will only be provided to managerial employees on a need-to-know basis or in the following circumstances allowed by state and federal law: (a) Use in an arbitration proceeding conducted under a collective bargaining agreement, an administrative hearing, or a judicial proceeding, if the information is relevant to the proceeding; (b) Disclosure to a federal agency as required by federal law, regulation, order, or in accordance with a federal contract; (c) Disclosure to a substance abuse treatment facility for the purposes of evaluating or treating the employee.

### **Follow-up On Positive Tests**

Within three days of receipt of a positive test result, the employee may submit information to his/her supervisor that might explain the result. Within five working days of receipt of a positive test result, the employee may request a confirmatory re-test, at his/her own expense. Within three days of a request for a re-test, Human Resources must notify the lab of the request for retesting at that lab or for sample transfer to another licensed lab for re-test. Human Resources will notify the supervisor of positive test results.

### **Consequences of a Positive Drug/Alcohol Test**

Any temporary or probationary employee who tests positive for drugs and/or alcohol will be terminated immediately. Any regular, non-probationary employee who tests positive for drugs and/or alcohol will be subject to disciplinary action and will be referred to the EAP for a first offense. The supervisor must schedule a meeting for the disciplinary action, in accordance with the discipline provisions of the applicable labor agreement. Any employee who has previously violated this policy and subsequently completed a treatment program, or who rejects participation in the EAP recommended plan, or who leaves a treatment program prior to successful completion and release will be immediately terminated.

### **Record Maintenance**

1. If disciplinary action is initiated, all records and related documents must be sent to the Human Resources office and will be placed in the employee’s personnel file. The supervisor must notify the employee that the records are in his/her personnel file.
2. If no disciplinary action is initiated, the supervisor must destroy all records and related documents, and notify the employee that this has occurred.