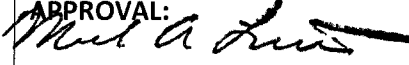


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**CITY OF SHELTON
SUBSTANCE ABUSE POLICY**

POLICY

The City of Shelton (the “City”) is committed to maintaining a work environment free from the adverse impact of employee drug and alcohol abuse. Employee drug and alcohol abuse may cause serious risks, physical harm, and economic injury to employees, the City, and the public. Such abuse may lead to increased accident rates and absenteeism and may cause performance and productivity to suffer. Employee drug and alcohol abuse may seriously compromise safety in the workplace and the quality of services that the City provides to the public. Individuals employed by the City as drivers of commercial motor vehicles and in other safety-sensitive positions must remain free from drug and alcohol abuse.

SCOPE OF POLICY

This Policy applies to all City employees subject to the Federal Omnibus Transportation Act on Drug Use and Alcohol Use. This Policy (or portions of this Policy) also applies to other employees pursuant to collective bargaining agreements between the City and its unions and non-union employees pursuant to applicable Personnel Rules.

EFFECTIVE DATE OF THIS POLICY

This Policy is effective January 1, 1996.

AMENDMENT/SAVINGS CLAUSE

This Policy is based upon applicable Federal and State law and will be amended by the City whenever amendments are required to conform to the Policy to applicable law. In the case of a conflict between this Policy and applicable Federal Regulations, the Federal Regulations shall supersede this Policy. If any provision of this Policy is declared invalid by a court of competent jurisdiction, said invalidity shall not affect the balance of this policy.

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I. DEFINITIONS

1.01 Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl and isopropyl alcohol.

1.02 Alcohol concentration (or content) means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.

1.03 Alcohol use means the consumption of any beverage, mixture, or preparation, including medication containing alcohol.

1.04 Chains of Custody means procedures to account for the integrity of each urine or blood specimen by tracking its handling and storage from the point of specimen collection to the final disposition of the specimen. With respect to drug testing, these procedures shall require that an appropriate drug testing custody form be used from the time of collection to receipt by the laboratory and that, upon receipt by the laboratory, appropriate laboratory chain of custody forms be used to account for the sample or sample aliquots within the laboratory.

1.05 Collection Container means a container into which the employee urinates to provide the urine sample used for a drug test.

1.06 Collection Site means a place designated by the City where employees present themselves to provide a specimen of their urine to be analyzed for the presence of drugs or their breath to be analyzed for the presence of alcohol.

1.07 Collection Site Person means a person who instructs and assists employees at a collection site and receives the specimen the employees provided.

1.08 Commercial Motor Vehicle is any vehicle that:

- a) has a gross vehicle weight rating or gross vehicle combination rating of 26,001 or more pounds or
- b) is designed to transport more than 15 passengers, including the driver; or

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c) is used in the transport of hazardous materials in a quantity requiring placarding under the Hazardous Materials Transportation Act unless exempted because of use for disaster relief or state emergency.

1.09 A confirmation test for alcohol testing means a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration. For controlled substances, testing means a second analytical procedure to identify the presence of a specific drug or metabolite that is independent of the screen test to ensure reliability and accuracy. (Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.)

1.10 Controlled substances (also known as drugs) refer to marijuana (THC), cocaine, opiates, phencyclidine (PCP), and amphetamines (including methamphetamines).

1.11 Employee means any person operating a commercial motor vehicle, performing other safety-sensitive functions, or supervising such persons. This includes but is not limited to full-time, regularly employed drivers or mechanics; casual, intermittent, or occasional drivers or mechanics; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to the City or who operate a commercial motor vehicle at the direction of or with the consent of the City. For pre-employment/pre-duty testing only, the term employee includes a person applying to the City to drive a commercial motor vehicle to perform safety-sensitive functions or to supervise such functions.

1.12 Employer means the City of Shelton (the “City”), including its agents, officials, and representatives.

1.13 Medical Review Officer means a licensed physician responsible for receiving laboratory results generated by an employer’s drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an employee’s confirmed positive test result together with his/her medical history and any other relevant biomedical information.

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1.14 Performing Safety Sensitive Functions includes all time “on duty,” from when an employee begins to work or is required to be in readiness for work until the time the employee is relieved from work and all responsibility for performing work. Functions include the following:

- a) awaiting to be dispatched;
- b) inspecting, servicing, and conditioning a motor vehicle;
- c) all driving time;
- d) all time, other than driving in or upon any commercial motor vehicle, except time spent in a sleeper berth;
- e) loading/unloading a vehicle, supervising/assisting same, attending to such a vehicle, remaining in readiness to operate a car, or giving/receiving receipts for shipments loaded or unloaded
- f) driving requirements related to accidents; and
- g) all-time repairing, obtaining assistance, or remaining in attendance upon a disabled motor vehicle.

1.15 A positive test result means a test result showing the presence of alcohol or a controlled substance in the employee’s system at or above the established threshold level.

1.16 Refuse to submit (to an alcohol or controlled substance test) means that an employee;

- (1) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing;
- (2) fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing; or
- (3) engages in conduct that clearly obstructs the testing process.

1.17 Screening test (also known as initial test). Alcohol testing is an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in his/her system. Controlled substances testing means an immunoassay screen to eliminate “negative” urine specimens from further consideration.

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1.18 Substance Abuse Professional (“SAP”) means a licensed physician (Medical Doctor or Doctor of Osteopathy) or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances related disorders.

II. RULES OF CONDUCT

Rules of conduct include, but are not limited to, the following:

2.01 Alcohol

- a) No employee shall possess, use, or distribute alcoholic beverages at the City’s work sites, in City vehicles, and/or while the employee is on duty.
- b) No employee shall report to work or remain at work under the influence of alcohol.
- c) No employee shall consume alcohol within four (4) hours of the start of scheduled safety-sensitive duties.
- d) No employee required to take a post-accident alcohol test shall use alcohol for eight (8) hours.
- e) Supervisors who actually know that an employee has consumed alcohol within four (4) hours of being assigned to perform safety-sensitive duties shall not permit the employee to perform those duties.

2.02 Controlled Substances

- a) No employee shall possess, distribute, or use controlled substances at the City’s work sites, in City vehicles, and/or while the employee is on duty.

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- b) No employee shall report to work under the influence of a controlled substance.

- c) No employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the employee uses or possesses any controlled substance, except when the use or possession is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to perform his duties safely.

- d) Any employee taking prescribed drugs at the direction of his physician must immediately notify his supervisor or, in his absence, the Administrative Assistant.

- e) No employee shall report for duty, remain on duty, or perform safety-sensitive functions if the employee tests positive for controlled substances.

2.03 Refusal to Submit to Required Testing/Rehabilitation Follow-Up

- a) No employee shall refuse to submit to required post-accident, reasonable suspicion, return-to-duty, or follow-up alcohol or controlled substances test.

- b) No employee shall tamper with or substitute specimens provided for alcohol/controlled substances testing.

- c) No employee shall refuse to undergo rehabilitation and follow-up programs as SAP recommends.

- d) Employees must successfully complete rehabilitation and follow-up programs prescribed by an SAP.

2.04 Obligation to Report/Cooperate

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- a) Each employee is encouraged to make good faith reports to the appropriate Supervisor of a violation or suspected violation of this Policy.
- b) Employee Supervisors shall cooperate with any City Investigation into possible violations of this Policy.
- c) Employees shall authorize the release of their medical records related to any alcohol/controlled substances testing, rehabilitation or follow up treatment required by the City to the contact person designated in this Policy and to City officials or agents with a need to know.

III. DISCIPLINARY ACTION

3.01 Removal from Duty

- a) Any employee undergoing reasonable suspicion testing will be removed from duty pending the test results. If the test results are negative, the employee will be returned to work with full back pay unless a suspension was imposed for additional reasons unrelated to this Policy.
- b) Any employee testing positive for alcohol or controlled substances will be disciplined pursuant to Section 3.03.
- c) Any employee called back to work outside of regular working hours to perform unscheduled safety-sensitive functions will be allowed to acknowledge, at the time he is called to duty, that he has used alcohol and to indicate whether he believes he is capable of performing the safety-sensitive function. If the employee believes he is not capable of performing the safety-sensitive function, the employee will be excused from doing so. If the employee believes he is capable of performing the safety-sensitive function, the City may allow the employee to undergo an alcohol test and the employee will be permitted to perform the safety-sensitive function if the alcohol concentration level is less than 0.02. if the employee's alcohol concentration measures greater than 0.02 or no test is given, the employee will be sent home. Nothing herein shall relive the employee of his obligation to remain fit for recall to duty when snow and other emergencies are anticipated.

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- d) Any employee testing between 0.02 and 0.0399 for alcohol will be removed from safety-sensitive duties for no less than twenty-four (24) hours.
- e) At the sole discretion of the City, during the period when an employee is prohibited from performing safety-sensitive functions, the employee may be assigned to non-safety-sensitive functions until he has complied with all requirements for returning to duty involving safety-sensitive functions.

3.02 Leave of Absence Prior to Testing

- a) An employee who voluntarily comes forward and asks for assistance to deal with an alcohol or controlled substance dependency problem shall not be disciplined unless the employee otherwise violates the alcohol-controlled substance rules of conduct or the employee engages in additional misconduct unrelated to this Policy or, the employee has previously been reinstated on a one-time lifetime basis under this Policy. A disclosure of a controlled substance or alcohol dependency problem by an employee upon notice from the City that he is to be scheduled for controlled substance or alcohol testing, is not a voluntary disclosure.
- b) A leave of absence without pay may be granted on a one-time lifetime basis for a maximum of sixty (60) days to allow the employee to undergo treatment pursuant to a rehabilitation program recommended by the SAP. An employee requesting reinstatement from such a leave of absence must demonstrate successful completion of the rehabilitation program and continuation of any follow-up treatment program and must submit to return-to-duty and follow-up testing. Reinstatement shall be on a onetime lifetime basis, i.e., any future violations of the alcohol/controlled substance rules of conduct will subject the employee to discipline up to and including discharge.
- c) Probationary employees are not eligible for a leave of absence under the provisions of Section 3.02.

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3.03 Violation of Rules of Conduct

- a) Any employee violating the rules of conduct for alcohol/controlled substances may be immediately removed from duty without pay by the City.
- b) The city may take Disciplinary action, up to and including discharge, when it has been determined, after a complete investigation, that the employee has violated any of the rules of conduct in Section II above.
- c) A refusal to provide specimens required for alcohol or controlled substance testing, tampering with or substituting specimens, or otherwise obstructing the testing process will subject the employee to discharge.
- d) In determining whether to return an employee to duty, the City shall take into consideration factors including, but not limited to, the employee’s evaluation by an SAP, the employee’s work performance, conduct, and attendance record, the employee’s longevity, the individual circumstances of the case and the seriousness of the incident. Suppose an employee who has violated the alcohol/controlled substance rules is to be reinstated before reinstatement. In that case, an SAP must evaluate the employee, and any employee identified as needing assistance must successfully complete the rehabilitation program prescribed by the initial evaluation. Reinstatement shall be on a one-time lifetime basis and conditioned on the employee continuing any recommended follow-up treatment program and submitting to return to duty and follow-up testing requirements.
- e) Any violation of the alcohol/controlled substance rules of conduct after a one-time lifetime reinstatement will result in disciplinary up to and including discharge.

IV. TESTING

4.01. Methodology. The testing methodology shall conform to applicable federal and state law. The City selects sites for the administration of drug

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and alcohol testing that meet the requirements specified by Federal Regulations.

a) Alcohol Testing. Alcohol testing shall be conducted using an evidential breath testing device (EBTD) administered by a trained tester. If authorized by law, blood alcohol tests may be used when the employee fails to provide adequate breath and when an EBTD is not available for post-accident or reasonable suspicion testing. Two breath tests are required to determine if an employee has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a “negative” test. If the alcohol concentration is 0.02 or greater, a confirmation test must be conducted. The employee and the individual performing the breath test (called a Breath Alcohol Technician (BAT)) complete the alcohol testing form to ensure the results are correctly recorded. The confirmation test, if required, must be conducted using an EBTD that prints out the results, date and time, a sequential test number, and the name and serial number of the EBTD to ensure the reliability of the results. The confirmation test results determine any action taken.

b) Controlled Substance Testing. The U.S. Department of Transportation (DOT) drug and alcohol testing procedures rule (49 CFR Part 40) sets forth the procedures for drug testing. Drug testing is conducted by analyzing the employees’ urine specimens. The analysis is performed at laboratories certified and monitored by the Department of Health and Human Services (DHHS). The employee provides a urine specimen in a location that affords privacy. The collection site person seals and labels the specimen completes a chain of custody document and prepares the specimen and accompanying paperwork for shipment to a drug testing laboratory. The specimen collection procedures and chain of custody ensure that the specimen’s security, proper identification, and integrity are not compromised. Each urine specimen is subdivided into two bottles labeled as a “primary” and a “split” specimen. Both bottles are sent to a laboratory. Only the primary specimen is opened and used for analysis. The split specimen remains sealed and stored at the laboratory.

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All urine specimens are analyzed for the following drugs:

1. Marijuana (THC metabolite)
2. Cocaine
3. Amphetamines
4. Opiates (including heroin)
5. Phencyclidine (PCP)

The testing is a two-stage process. First, a screening test is performed. If it is positive for one or more of the drugs, then a confirmation test is performed for each identified drug using state-of-the-art gas chromatography/mass spectrometry (GC/MS) analysis. The City shall disregard the initial screening test if the confirmation test is negative for illegal controlled substances.

All drug test results are reviewed and interpreted by the MRO before they are reported to the City. Suppose the laboratory reports a positive outcome to the MRO. In that case, the MRO contacts the employee (in person or by telephone) and interviews to determine if there is an alternative medical explanation for the drugs found in the employee's urine specimen. For all the drugs except PCP, some limited, legitimate medical uses may explain the positive test result. If the employee provides appropriate documentation and the MRO determines that it is the legitimate medical use of the prohibited drug, the drug result is reported as negative to the City.

If the analysis of the primary specimen confirms the presence of illegal controlled substances, the employee may, within seventy-two (72) hours of being notified of a verified positive test result, request that the MRO direct that the first laboratory forward the split specimen to another DHHS-certified laboratory. The second laboratory shall analyze the split specimen for the presence of the drug(s) for which a positive result was obtained in the test of the primary specimen. Suppose the outcome of the test of the split specimen fails to reconfirm the presence of illegal drug(s) found in the primary specimen. In that case, the MRO shall cancel the test, and the City shall disregard the first positive result.

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4.02 Pre-Employment. Testing for use of alcohol and controlled substances shall be administered to successful applicants for positions that are covered by this Policy before commencement of employment with the City. Offers of employment shall be conditioned on the applicants passing alcohol and controlled substances testing. At its discretion, the City may waive such testing when the applicant was tested during his previous employment within the time required by law, provided the applicant releases the test results to the City. An applicant whose confirmation test is positive for alcohol or controlled substances will not be hired. Applicants will be informed in writing of the City's testing Policy at the time of application. No applicant will be required to submit to alcohol and controlled substance testing until such notice has been given.

4.03 Post-Accident. As soon as practicable following an on-duty accident, the City shall test each surviving employee for controlled substance and alcohol use if the accident involved the loss of human life or a citation is issued to the driver and bodily injury requiring immediate medical treatment away from the scene of the accident has occurred or one or more motor vehicles incurs disabling damage requiring the vehicle to be towed away from the scene unless the vehicle damage is limited to flat tires and/or smashed headlights.

- a) If the alcohol test is not administered within two (2) hours following the accident, the City shall prepare and maintain on file a record stating why the test was not promptly administered. If the alcohol test is not administered within eight (8) hours following the accident, the City shall cease attempts to administer an alcohol test. It shall prepare and maintain the same record.
- b) If a controlled substance test required by this action is not administered within thirty-two (32) hours following the accident, the City shall cease attempting to distribute a

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controlled substance test and prepare and maintain a record stating why the test was not promptly administered on file.

- c) An employee subject to post-accident testing shall remain readily available for such testing or may be deemed to have refused to submit.
- d) Nothing in this section shall be construed to require the attention of injured people following an accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance and respond to the accident or to obtain necessary emergency medical care.

4.04 Reasonable Suspicion. The City shall test each employee whenever it has a reasonable suspicion that the employee has violated the rules of conduct by using alcohol or controlled substances.

- a) The determination that reasonable suspicion exists to require the employee to undergo a test must be based on specific, contemporaneous, articulable observations concerning the employee's appearance, behavior, speech, or body orders. The observations may include indications of the chronic or withdrawal effects of controlled substances. The person who determines that a reasonable suspicion exists to conduct a test shall not perform such test but shall refer the employee for testing. The determination must be made by a supervisor trained in determining the symptoms of alcohol or controlled substance abuse. The supervisor shall make a written record of the observations, which are the basis of reasonable suspicion, as soon as possible but not later than within twenty-four (24) hours.
- b) Testing is authorized only if the observations are made during, immediately proceeding with, or immediately after a period of the work day during which the employee performs safety-sensitive functions. If the alcohol test is not administered within two (2) hours following the determination of reasonable suspicion, the City shall prepare and maintain a record on file stating why the

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alcohol test was not promptly administered. If the alcohol test is not administered within eight (8) hours following the determination of reasonable suspicion, the City shall cease attempting an alcohol test. It shall state in the record the reasons for not administering the test. If a controlled substance test required by this section is not administered within thirty-two (32) hours following the observation, the City shall cease attempts to administer a controlled substance test and prepare and maintain a record stating why the test was not promptly administered on file.

- c) An employee subject to reasonable suspicion testing shall remain readily available for such testing or may be deemed to have refused to submit to testing.

4.05 Random testing. Employees are subject to random testing for the use of alcohol and controlled substances. At a minimum, on an annual basis, the City shall randomly test the percentage of employees required by law (initially, 25% of the employees for alcohol testing and 50% of the employees for controlled substance testing). The selection of employees for random testing shall be made by a scientifically valid method, such as a random number table of a computer based on a random number generator matched with the employees' social security numbers, payroll I.D. numbers, etc. Tests must be unannounced, and the dates for administering such tests are spread throughout the calendar year. Each employee notified of selection for testing must proceed to the test site immediately. Employees are subject to random testing only while performing safety-sensitive functions, immediately before performing such functions, or immediately after such performance.

4.06 Return to Duty Testing. No employee who has tested at 0.04 or above for alcohol or who has tested positive for a controlled substance may perform safety-sensitive functions until evaluated by the Medical Review Officer and Substance Abuse Professional, and an alcohol test result indicates alcohol concentrations of less than 0.02 and/or a controlled substance test result is verified to be negative.

4.07 Follow-Up Testing. An employee who has been referred to an SAP because of violation of alcohol-controlled substance rules of conduct, which the SAP identifies as needing assistance in resolving said misuse/problem, and has, at the option of the City, been reinstated to a safety-sensitive position, is subject to unannounced follow-up-controlled substance and/or alcohol testing for up to sixty (60) months. The number and frequency of such follow-up testing shall be as directed by the SAP and consist of at least six (6) tests in the first twelve (12) months following the employees' return to duty.

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V. RECORDS

5.01 Retention of Records. The City shall maintain records related to alcohol and controlled substances as follows:

- a) Records of verified positive test results, employee refusals to take tests, and employee evaluations and referrals. Minimum retention: 5 years.
- b) Records relating to training and controlled substance collection. Minimum retention: 2 years.
- c) Records of negative test results. Minimum retention: 5 years.
- d) Records documenting the inability to conduct a post-accident or reasonable suspicion testing. Minimum retention: 5 years.
- e) Equipment (EBTD) calibration records. Minimum retention: 5 years.
- f) Annual calendar year summaries (completed by the following March 15th) of the results of alcohol and controlled substance testing programs. Minimum retention: 5 years.

5.02 Confidentiality of Records. Records related to alcohol and controlled substance testing are treated as confidential with the following exceptions:

- a) The state and federal departments of transportation and the State Department of Motor Vehicles must have access to records.
- b) Records will be available to an employee's union representative or subsequent employers upon receipt of a written request.
- c) Information may also be disclosed to the employee who is the subject of the testing, City Officials or agents with a need to know, the decision-maker in a lawsuit, grievance or other

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proceeding initiated by on or behalf of the individual and arising from the results of a test or from the City's determination that the employee engaged in conduct prohibited by this Policy.

- d) Test results shall be maintained with other employee medical records and subject to privacy protection provided by law.

VI. EMPLOYEE EDUCATION AND TRAINING

6.01 The City shall provide each employee with a copy of this Policy and with educational material concerning the effects of alcohol and controlled substances and resources available for evaluation and treatment of substance abuse problems. Employees shall sign a statement certifying receipt of this Policy and information. The City shall provide the employee's union representative with written notice confirming the availability of this information.

6.02 The city shall provide each employee in a supervisory or other position which would place the employee in a position of determining whether reasonable suspicion exists with at least sixty (60) minutes of training in alcohol misuse and an additional sixty (60) minutes of training in controlled substance use and abuse. This training shall cover the physical, behavioral, speech, and performance indicators of probable alcohol and controlled substance abuse. Refresher training will be provided at reasonable intervals.

VII. COMPENSATION

7.01 Testing Costs. The City shall pay for all initial screening and confirmation test costs. By payroll deduction, the employee shall pay for all costs associated with any second laboratory analysis requested by the employee unless the second analysis does not verify the initial positive test result. In this case, the City shall pay for the second analysis.

7.02 Paid-For-Time. Employees directed by the City to submit to random, reasonable suspicion, post-accident, or follow-up testing shall be considered on duty and paid at the applicable straight time or

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overtime rate for all time at the collection site and for travel time from the City facility to the collection site and back. Employees subject to return-to-duty testing are not considered on duty or paid for such time.

7.03 Mileage Reimbursement. If the employee uses a personal vehicle to travel to the collection site, mileage from the City facility to the collection site and back will be paid at the rate-per-mile then in effect for mileage reimbursement. Employees whose test results are positive or who are required to submit to return-to-duty testing are not eligible for mileage reimbursement.

7.04 Rehabilitation Follow-Up Program Costs. Any cost of evaluation and/or rehabilitation over and above that paid for by the employee's medical insurance shall be borne by the employee.

VIII. NOTIFICATION OF CONVICTIONS

1.01 Drug-Free Workplace Act. Under the Drug-Free Workplace Act, employees must notify the City within five (5) days of any criminal drug conviction for a violation occurring in the workplace.

IX. CONTACT PERSON

9.01 Work Contact. Regulations require that a single contact person be identified to answer questions about this Policy. For this Policy, the contact person shall be the Administrative Assistant to the Mayor, Shelton City Hall, 54 Hill Street, Shelton, Connecticut, (203) 924-1555 ext. 1413. Copies of relevant regulations are also available from the contact person.

