

**ORDINANCE No. 2013-151
CITY OF SHOREACRES, TEXAS**

AN ORDINANCE AMENDING THE CODE OF THE CITY OF SHOREACRES TO DEFINE WORK-RELATED INJURIES THAT REQUIRE SUBSTANCE ABUSE TESTING; CONTAINING A SEVERABILITY CLAUSE; MAKING VARIOUS FINDINGS AND PROVISIONS RELATING TO THE SUBJECT; FINDING COMPLIANCE WITH THE OPEN MEETINGS LAW; AND PROVIDING AN EFFECTIVE DATE HEREOF.

* * * *

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHOREACRES:

That, the facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct; and,

That if any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance; and,

That the City Council officially finds, determines, recites, and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

That section 2-109 of the Shoreacres City Code is hereby amended to read as follows:

Sec. 2-109. Substance abuse.

As a public employer, the city is entrusted with protecting the health and safety of the citizens, the city's employees and the interests of the city. In keeping this obligation, all employees of the city will be required to pass a substance abuse test prior to employment, after any recordable work-related injury or accident, damage to any city property (Shoreacres' or otherwise) or private property requiring repair or if the department head has reasonable and probable cause. An employee may not report to work under the influence of alcohol or illegal drugs. Failure of any city staff, supervisor or official to adhere to this section may result in termination.

- (a) *Reasonable suspicion.* In establishing a basis for reasonable suspicion, the department head will interview the employee about possible causes for the observed behavior and will describe the incident in writing.
- (b) *Consent form.* Employees required to submit to a substance abuse test will be required to sign a consent form. Refusal to sign the consent form shall be considered a refusal to take the test and subject to discipline, including dismissal.
- (c) *Testing facility.* All substance abuse tests will be conducted under the supervision of the city's designated physician or testing facility. Testing will be conducted in accordance with relevant Mandatory Guidelines for Federal Work Place Drug Testing Programs (also known as the "NIDA" rules).
- (d) *Prescription medicine.* In the event that a positive finding may have been caused by prescribed medication, the tested person will be given the opportunity to confer with the supervising physician and to present a current prescription for the medication that caused the positive test result. If the physician finds the prescribed medication to be legitimate cause of the test results, the overall results will be reported as "negative", and the person shall not be subject to any adverse action.
- (e) *Retesting.* An employee or applicant who tests positive may request a retest at that person's own expense. A request for a retest must be made in writing to the department head within three working days of receipt of the test results.
- (f) *Security of data.* Test results will be held in strictest confidence. The personal identification of the person failing to pass the test will not be communicated to anyone other than the person tested, the city secretary, the department head in which the employee or applicant works or applied, the mayor, and the city attorney.
- (g) *Self-declaration as a substance abuser.* Any employee may identify himself/herself at any time as an abuser of drugs or alcohol and voluntarily seek counseling and rehabilitation. Although the city's group health plan may provide benefits for substance abuse, the cost of treatment, counseling, or rehabilitation will be the responsibility of the employee. In these instances, an employee will be permitted to use available leave subject to leave provisions set forth herein. Employees undergoing treatment will be required to authorize disclosure of their progress to the city secretary or mayor. Employees who fail to actively participate in and comply with the rules of the rehabilitation program will be subject to immediate revocation of their leave and dismissal of employment. This section is not intended to provide a means for an employee to avoid any required substance abuse test. Once the process of establishing reasonable suspicion has been initiated or an accident or injury has occurred, an employee may not seek treatment in an effort to avoid testing and possible disciplinary action.
- (h) *Recordable work-related injury.* A work-related injury or illness that results in any of the following: death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, or loss of consciousness. Also includes any significant work-related injury or illness diagnosed by a physician or

other licensed health care professional, even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness.

This Ordinance shall be effective immediately after its passage and approval.

PASSED AND APPROVED this the 11th day of November 2013.

(CITY SEAL)

Matt Webber, Mayor

ATTEST:

David K. Stall, CFM
City Secretary

M/2		Yea	Nay	N/V	Absent
<input type="checkbox"/>	M. Webber	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	B. Bunker	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	S. Jones	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	R. Moses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	N. Schnell	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	M. Wheeler	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Passed / Failed _____

David Stall, City Secretary - Date