



**City of Auburn**

1101 J Street  
Auburn, Nebraska 68305

402-274-3420  
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www.auburn.ne.gov

**MAYOR**

Scott Kudrna

**COUNCIL MEMBERS**

- Katy Billings
- Mitch Bishop
- Shawn Clark
- Frank Critser
- Larry Holtzman
- Mary Kruger

**CALL, AND NOTICE OF SPECIAL MEETING  
OF THE MAYOR AND CITY COUNCIL OF  
THE CITY OF AUBURN, NEMAHA  
COUNTY, NEBRASKA**

STATE OF NEBRASKA )  
COUNTY OF NEMAHA ) ss.  
CITY OF AUBURN )

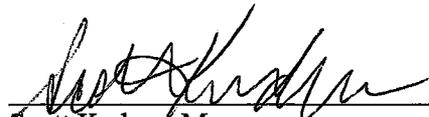
TO THE MEMBERS OF THE CITY COUNCIL OF THE CITY OF AUBURN,  
NEMAHA COUNTY, NEBRASKA, AND TO WHOM IT MAY CONCERN:

A SPECIAL MEETING OF THE MAYOR AND THE CITY COUNCIL OF THE  
CITY OF AUBURN, NEMAHA COUNTY, NEBRASKA, is hereby called to be  
held at the City Hall at 1101 "J" Street in the City of Auburn, Nemaha County,  
Nebraska, on the 26<sup>th</sup> day of November, 2012 at 7:00 P.M. for the following objects  
and purposes, which shall constitute the Agenda for said Special Meeting.

1. **ANNOUNCE** – "I am required by law to inform the public that a copy of the  
Open Meetings Act is posted on the North wall of these Chambers by the  
entrance door."
2. **ROLL CALL.**
3. **CITY LAW ENFORCEMENT COVERAGE**, re: consideration of  
contract coverage through the County Sheriff's Department or maintaining  
coverage through City Police Department.
4. **ANNUAL UPDATE** to City Personnel Policy/Personnel Policy  
Amendments.
5. **ADJOURNMENT.**

NOTICE is hereby given that the Mayor and City Council of the City of Auburn,  
Nemaha County, Nebraska, shall meet at the place, date and time herein set forth and  
for the objects and purposes herein stated.

Dated the 16<sup>th</sup> day of November, 2012.

  
\_\_\_\_\_  
Scott Kudrna, Mayor  
City of Auburn, Nemaha County, Nebraska

ATTEST:  
  
\_\_\_\_\_  
Sherry Heskett, City Clerk  
City of Auburn, Nemaha County, Nebraska



**INTERLOCAL AGREEMENT TO PROVIDE COMPLETE LAW ENFORCEMENT SERVICES AND DUTIES TO THE CITY OF AUBURN, NEBRASKA PROVIDED BY THE NEMAHA COUNTY SHERIFF'S OFFICE, NEMAHA COUNTY, NEBRASKA.**

**THIS AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_ by and between the County of Nemaha, State of Nebraska, hereinafter referred to as the "County", the Nemaha County Sheriff's Office, hereinafter referred to as the "Sheriff", and the City of Auburn, State of Nebraska, hereinafter referred to as the "City".

**WHEREAS**, the City desires to contract with the County to fulfill all Law Enforcement Services and Duties through the Sheriff for the benefit and service of the City, within the City's corporate boundaries supported by the manpower and equipment provided by the Nemaha County Sheriff's Office;

**WHEREAS**, such contracts are legally authorized by the Interlocal Cooperation Act, Neb. Rev. Stat. § 13-801, *et seq.*;

**WHEREAS**, the County Commissioners are agreeable to provide said services an duties by contract with and for the benefit of the City pursuant to the terms and conditions set forth herein.

**NOW, THEREFORE BE IT RESOLVED** in consideration of the mutual covenants contained herein, the County, Sheriff and City agree as follows:

1. The County and Sheriff agree to provide complete law enforcement services and performance within the corporate City limits to the extent and in the manner set forth herein. Said services shall encompass all duties, functions, obligations and performance coming within the jurisdiction of, and of a like and similar nature as is customarily rendered by the Nemaha County Sheriff, pursuant to Nebraska Law.
2. The Nemaha County Sheriff shall provide law enforcement coverage, service and performance within the City limits as determined by the Sheriff pursuant to the mutual covenants herein. All such coverage, service and performance shall be contingent upon the availability of manpower and the nature of the Sheriff's duties in other parts of the County.
3. The nature of the services provided herein, the standards of performance, the discipline of officers, and all other matters incidental to the performance of law enforcement, including the control of personnel and employment shall be with the Sheriff. In the event of a dispute between the parties as to the extent or nature of the services or performance to be provided herein, the final determination will be made by the Sheriff, upon consideration of the City's request, and is final and conclusive as between all parties.

4. Services to be preformed hereunder shall include traffic enforcement, security of businesses, and protection of the public's safety, health and well-being. Such services shall include the enforcement of the State Statutes and City Municipal Code of Ordinances violations. It is agreed that the Sheriff may enforce City Code violations that occur in the presence of the Sheriff or a authorized representative thereof. There is no specific duty imposed to seek out City Code violations. City Code violations shall be investigated upon formal complaint or upon patrol. Prosecution of City Code violations is the responsibility of the City, and deputies and officers shall assist in prosecution as needed.
5. For purposes of performing said functions, the County will furnish and supply all necessary labor, supervision, equipment, communication services, office space, furniture and furnishings, office supplies, telephone, light, water, and other utilities and supplies necessary to maintain the level of service and coverage currently rendered by the Auburn Police Department. The County and City each agree that the contract for dispatch services entered into between the County and the City shall be terminated effective on the date of the commencement of this Agreement. Any special supplies, including stationary, notices, forms, and the like that must be issued in the name of the City, shall be supplied by the City at City expense.
6. The County shall be responsible for all animal disposal fees associated with the enforcement of City Code violations. The County shall be responsible for any unpaid impoundment fees associated with the enforcement of City Code.
7. The County agrees that the lease to the City now existing for office space in the Nemaha County Law Enforcement Building shall be terminated effective on the date of the commencement of this Agreement without further obligation. All furnishings, equipment, supplies, computers, telephones, etc. located in the space leased by the City and utilized by the Auburn Police Department shall become the sole and exclusive property of the County from the date of this Agreement forward.
8. All equipment used by the Auburn Police Department, including but not limited to, patrol vehicles, radios, cameras, firearms, vests, etc., shall be transferred to the exclusive ownership and possession of the Nemaha County Sheriff's Office, with the exclusion of the camera, computer and recording equipment located at or attached to the City Hall which shall remain with the City with reasonable use by the Sheriff. The City shall immediately execute all patrol vehicle titles to the ownership of the County. The County shall take a current inventory of all assets assigned and transferred from the City to the County. All assets will be tagged and inventoried as required by the County's inventory policy. The City shall provide any assistance necessary to the

County in assigning and transferring all Auburn Police Department property to the County.

9. All persons assigned to duties created by this Agreement shall be members of the Nemaha County Sheriff's Office, trained by the Sheriff and under the direction and exclusive control of the Nemaha County Sheriff. Compensation to persons providing services herein and provisions for bonds, fringe benefits, insurance, and workman's compensations shall be the sole responsibility of the County. All Auburn Police Department pending business, investigations, duties, and obligations shall transfer to the County upon approval of this Agreement by the Parties unless otherwise stated herein.
10. The City shall, at its own expense, provide liability insurance to indemnify itself in the event it becomes liable for the payment of a judgment based on the acts or omissions of a deputy in the enforcement of a City Ordinance or State Statute, as provided in Neb. Rev. Stat. §13-1802, reissue 2007. The County will indemnify and hold the City harmless from any claims for causes of action resulting from the intentional or negligent acts of the County, its officers, or employees solely in regard to activities undertaken pursuant to this Agreement.
11. The City shall pay to the County as consideration for complete Law Enforcement performance, service and duties, the total base sum of two hundred eighty two thousand, nine hundred and ninety nine dollars and ninety six cents (\$282,999.96) for the first year of this contract period, payable in twelve equal monthly installments of \$23,583.33 due on or before the 15th day of each month for twelve months commencing on January 1, 2013.
  - 11.a. **Further herein**, there shall be an additional ten thousand dollars (\$10,000) paid each year of the contract by the City to the County for the replacement of patrol vehicles. Said amount shall be paid in a lump sum and included in the July payment. **Furthermore herein**, there is an additional ten thousand dollar (\$10,000) credit annually given to the City by the County in consideration of the equipment and vehicles that were relinquished to the County said credit shall be applied to the City's obligation for each contract year of 2013, 2014 and 2015.
  - 11.b. **Further herein**, Commencing on January 1, 2014, and continuing on a annual basis for a period of two (2) years thereafter, the City shall pay to the County the base sum of two hundred eighty two thousand, nine hundred and ninety nine dollars and ninety six cents (\$282,999.96) plus or minus ten percent (10%) as agreed upon by the City and County no later than September 30<sup>th</sup> of the foregoing year. Said adjustment to the base sum shall be based on changes in salaries, salary based expenses, insurance premiums and payment history of Sheriff's Office deputies for County covered deductibles. Contract payments shall be payable in twelve equal monthly

installments, to be calculated by dividing the negotiated annual amount as determined herein above by twelve (12). Monthly payments shall be due on or before the 15th day of each month.

12. The three officers currently employed by the City of Auburn Police Department will be hired and retained by the Nemaha County Sheriff as deputy sheriffs. Compensation shall be the current salary paid to that officer by the City or the salary that a deputy would receive with like education and experience, based on the salary schedule of the Nemaha County Sheriff's office, whichever is greater. If termination of employment of any of the above mentioned officers becomes necessary as determined by the Sheriff or by retirement or voluntary resignation of employment, any newly hired deputy will be compensated as if said deputy were newly hired by the Sheriff's Office and would not be afforded any higher salary that the prior officer received as a result of this agreement. Years of service to the City by the above mentioned officers would be utilized to determine the benefits allowed each officer by the County for purposes of calculating annual paid vacation. All vacation and sick leave currently available to each officer would be carried over to the County. Compensatory time owed by the City to each officer would be paid by the City to the officer. For purposes of earning paid vacation, the hire date of the officer by the City will be considered the official anniversary date by the County for calculation of benefits.
13. All personnel files, either original or a complete copy, pertaining to the three current officers will be transferred to the Sheriff.
14. By 4: 00 o'clock p.m. the Thursday preceding the City Council's monthly regular meeting, the Sheriff will submit a written general overview to the City Hall to be included within the Council packet, that shows the services performed during the previous month.
15. This Agreement shall become effective January 1, 2013, and shall remain in full force and effect pursuant to the provisions herein, for years 2013, 2014 and 2015, unless otherwise terminated pursuant to Nebraska Law.
16. Any Party herein shall have the right to terminate this Agreement upon sixty (60) days written notice by the Party. Notices provided to the County and the Sheriff shall be hand delivered or mailed by first class mail postage prepaid to the Nemaha County Sheriff's Office, 1805 N Street, Auburn, Nebraska 68305 and the Nemaha County Board of Commissioners, c/o Nemaha County Clerk, 1824 N Street, Suite 201, Auburn, Nebraska 68305. Notice provided to the City shall be hand delivered or mailed by first class mail postage prepaid to the Auburn City Clerk, 1101 J Street, Auburn, Nebraska 68305.

The City of Auburn, State of Nebraska, by Resolution passed and approved by City Council has caused this Agreement hereinabove to be signed by its Mayor

and attested by the City Clerk. The County of Nemaha, State of Nebraska, by Resolution of its Board of Commissioners, has caused this Agreement to be signed by the Chairman of the Board and attested by the County Clerk.

**City of Auburn, Nebraska**

By: \_\_\_\_\_  
J. Scott Kudrna, Mayor

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Sherry Heskett, Auburn City Clerk

**Nemaha County, Nebraska**

\_\_\_\_\_  
Bob Hutton, Chairman  
Nemaha County Board  
of Commissioners

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Joyce Oakley, County Clerk

**Nemaha County Sheriff's  
Office, Nebraska**

\_\_\_\_\_  
Brent Lottman, Sheriff

Date: \_\_\_\_\_

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## I. INTRODUCTION

As an employee of the City of Auburn, you should become familiar with all of the personnel policies set forth below. Following your review, you are to sign and return an *Acknowledgment*, which will be provided to you. This Manual, of course, does not cover every policy or procedure adopted by the City of Auburn -- it simply summarizes some of the key points each employee should understand.

As you review the personnel policies, you should keep in mind several basic concepts. First, our relationship as employer and employee is based on mutual respect and consent, and therefore will continue only as long as both parties find the relationship to be satisfactory. Accordingly, you are free to terminate your employment whenever you feel it would be in your best interest to do so. By the same token, the City of Auburn reserves the same right to terminate employment whenever, in the discretion of management, it is felt necessary to do so. No employee of the City of Auburn has a property interest in his or her employment. This is known as employment "at-will" and all of the policies are subject to this overriding principle.

Second, the personnel policies cannot possibly describe every circumstance that might arise, and therefore should be considered only summaries for your convenient reference. They are not a contract; and the City of Auburn reserves the right to exercise its discretion when interpreting and applying these policies and to modify the policies at any time.

Finally, because these policies are summaries only, there will be other documents containing more complete rules and requirements to which you will need to refer from time to time. This will include department personnel policies and/or department procedures, as well as, in the case of certain benefits which are governed by insurance policies or other written benefit plans. Do not rely exclusively on the personnel policies with respect to any specific benefit, especially benefits which are provided through outside insurance. All benefit descriptions in these policies are subject to the employee meeting whatever eligibility requirements, qualifications, and conditions set forth in the insurance policy or benefit plan itself and you should be sure that you understand those provisions.

If you have questions regarding any of the personnel policies or need more information on any subject, please contact your supervisor, department head or the City Clerk's Office.

## II. EQUAL OPPORTUNITY EMPLOYMENT

The City of Auburn is an Equal Opportunity Employer and will not discriminate in hiring, firing, promotion, pay or any other term or condition of employment on the basis of race, color, religion, age, sex, marital status, genetic information, or national origin, or on

the basis of disability if the employee can perform the essential functions of the job, with reasonable accommodations if necessary. Any employee who is aware of discriminatory conduct or who has any concern about a possible violation of this policy should immediately report the concern to the City of Auburn.

### III. HARASSMENT PROHIBITED

Civility and respect for each individual's privacy and dignity are required of all employees of the City of Auburn. Any conduct which is inconsistent with these principles is simply not acceptable and will not be tolerated. More specifically, any form of harassment on the job or related to the job - including sexual harassment and also including racial, ethnic, disability, or other harassment - is absolutely prohibited and may result in severe corrective action, possibly including discharge from employment.

Harassment is broadly defined to include any conduct which is personally demeaning or offensive, and tends to equate a person's worth to their gender, race, religion, age, disability status, or other personal traits, rather than their ability to perform their jobs and contribute to the success of the City of Auburn. Without limiting the breadth of this definition, harassment specifically includes:

**Sexual harassment in any form:** Sexual harassment is defined by federal regulations as follows:

*"Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment."*

Prohibited acts of sexual harassment can take a variety of forms ranging from subtle pressure for sexual activity to physical assault. Examples of some of the kinds of conduct included in the definition of sexual harassment are:

- Sexual relations, sexual contact, or threats or intimation of sexual relations or sexual contact, which are not welcome and freely and mutually agreeable to both parties;
- Continual or repeated remarks with sexual implications, placing sexually suggestive objects or pictures in the work area, or propositions of a sexual nature; or
- Threats or insinuations that the person's employment, wages, promotional opportunities, job assignments, or other conditions of employment may be adversely affected by not submitting to sexual advances, or promises or insinuations that any

conditions of employment may be favorably affected by submitting to sexual advances.

What is or is not offensive must be viewed from the perspective of the victim, and the fact that no objection is voiced or the other person seems to be "going along" does not mean the conduct is acceptable.

**Harassment on the basis of any other improper factor**, such as race, color, religion, age, national origin, genetic information, or disability, as with sexual harassment, or any conduct which could be offensive and create an intimidating, hostile, or offensive working environment on the basis of one of these factors, is improper and is strictly prohibited. This could include, for example, racial slurs, religious jokes, or the assignment of work known to be beyond an individual's disability limitations with the intent to harass or annoy.

An employee, who feels that he or she has been harassed by any supervisor, co-worker, vendor, or other person in the workplace, or who has witnessed harassment of another, has several options. Whenever possible, the person doing the harassing should be told, politely but firmly, that such conduct is not acceptable. Alternatively, in any case, the complaint of harassment may be brought to the individual's department head, to the City Clerk, Mayor, or City Attorney or Deputy City Attorney.

The worst alternative usually is to do nothing and allow the situation to continue. All employees are strongly encouraged to take appropriate action as soon as possible if they feel they are being harassed or witness harassment of others. All department heads who become aware of harassment or receive a complaint of harassment must promptly notify the City Clerk and the Mayor.

All complaints of harassment will be promptly and thoroughly investigated; and if the complaint is found to be justified, corrective action appropriate to the circumstances will be taken. All complaints and all information given during an investigation will be treated as confidentially as possible, subject to the need to conduct a full and fair investigation, as well as, to inform those individuals who will be involved in any corrective action.

Under no circumstances will any person who in good faith makes a complaint of harassment, or assists in the investigation thereof be subject to any form of retribution or retaliation. Any person who makes or participates in such retribution or retaliation, directly or indirectly, will be subject to severe corrective action.

#### **IV. DEFINITIONS AND CLASSIFICATIONS**

- A. Introductory Employee:** An employee working during the orientation period, which is six (6) months from the first day of work, unless extended.
- B. Regular Employee:** An employee who has completed the orientation period and remains employed.

- C. Full-Time:** Regularly scheduled to work forty (40) or more hours per week.
- D. Part-Time:** Regularly scheduled to work less than forty (40) hours per week.
- E. Temporary:** Employed with the expectation that employment will be for a short duration, such as on a seasonal or project basis.
- F. Exempt/Salaried:** All employees who are exempt under the Fair Labor Standards Act (FLSA) are not required to be compensated for any time worked over 40 hours. Exempt employees do not receive compensatory pay. Exempt employees are paid a defined annual salary, without reductions in pay for reasonable or necessary absences, or for any absences of less than a week due to illness (although time off benefits may be applied to any absence). Exempt employees work all hours required to fully and properly perform the job.
- G. Non-exempt/Hourly:** The City of Auburn shall comply with the Fair Labor Standards Act (FLSA). Non-exempt employees, who work more than 40 hours in any workweek will be given compensatory pay or may request compensatory time as approved by the department head. Both shall be earned at a rate of one and one-half hours for each overtime hour worked. Employees who are approved to take compensatory time must use these hours earned within 30 days, subject to their supervisor's approval. Compensatory time hours will not be allowed to accumulate. Any unused compensatory time that is over 30 days old will be paid out at the next pay period.
- H. Further definitions:** Compensatory pay shall be paid to the nearest one-quarter hour. When called back to work, compensatory pay shall be a minimum of one-half hour. When required to work past regular working hours, compensatory time shall be the actual time worked. Shift worker compensatory time is based on scheduled hours worked. Double pay on holidays shall be calculated on "regular" working hours only - all other holiday hours worked will be paid at the regular compensatory rate.

All employee classifications shall be determined by the City of Auburn, and may be changed from time to time as warranted by the circumstances. The employee's official classification maintained by the Clerk's Office shall be controlling, regardless of the hours worked or duties performed in any individual week.

## **V. WORKING CONDITIONS AND PAYROLL**

- A. Workweek:** The workweek is defined as the 7-day period commencing at 12:00:01 A.M. Sunday and ending at Midnight Saturday each week. Employees are paid on the last working day of each month. Hours worked will be paid through the day preceding the date the payroll department enters the time-sheets into the computer. Employee pay will be electronically deposited in their bank account.
- B. Hours of Work:**

**Winter Hours** - Please refer to your Department Personnel Policy/Manual.

**Summer Hours** - Please refer to your Department Personnel Policy/Manual.

**Office Hours** - In order to accommodate customers and maintain office hours from 8:00 AM to 5:00 PM, office staff will alternate their work hours between office staff employees to maintain office hours from 8:00 AM - 5:00 PM through the year or as directed in your Department Personnel Policy/Manual.

**All employees** - are expected to work additional hours if needed, and to work any shift assigned. Lunch and other breaks in the workday will vary by area and shift; consult your department head for these details. Hours of work are subject to change by the City of Auburn.

**C. Time Sheets:** All employees that are not listed as exempt/salaried must accurately complete time sheets daily. It is the responsibility of each employee to properly record time that she/he has worked during a payroll period. Each time card shall bear the signature of the employee that verifies the accuracy and a signature of the supervisor indicating that the hours claimed were actually worked. Falsifying time sheets or preparing time sheets for another employee is prohibited and may result in disciplinary action, up to and including discharge.

**D. Attendance:** Prompt and regular attendance is an important job performance factor. All employees shall attend each day of scheduled work unless they receive authorized leave. Employees should notify their Department Head of their absence at a minimum of 30 minutes before their scheduled work time to allow for adequate job coverage. Unnecessary, habitual or frequent tardiness or absence may result in an appropriate pay reduction or disciplinary action up to and including discharge. Employees and Officers of the City Streets Department and the City Police Department should refer to his/her department head or department policy and procedure manual for specific procedures or requirements to be followed in his/her department.

**E. Employment Conditions** [Employees and Officers of the City Streets Department and the City Police Department should refer to his/her department head or department policy and procedure manual for specific procedures or requirements to be followed in his/her department]:

1. The City of Auburn is committed to meeting its obligations under U.S. immigration law. Accordingly, the City of Auburn neither hires nor continues to employ an individual who is not legally authorized to work in the United States. Moreover, the City of Auburn does not discriminate on the basis of citizenship status or national origin in recruitment, hiring, or discharge.

The City of Auburn will ensure that all new employees:

- a. Complete and sign the employee's portion of Form I-9, Employment Eligibility Verification; and
  - b. Present original documentation supporting the employee's identity and employment eligibility.
  - c. If the above requirements are not met or cannot be verified, a candidate cannot be employed at the City of Auburn.
2. The City of Auburn may reject any applicant who has been convicted of a crime involving moral turpitude, has made any false statement of any material fact, or practices any deception or fraud during the application process.
  3. Offers of employment are also contingent upon results of a physical examination, security background check, drug test, and MVR report. A refusal to submit to or to release information as required by the City of Auburn shall remove the applicant from employment consideration:

**Physical Examination** - The type of physical examination will be determined by the employee's Job Description. After receiving a conditional offer of employment, prospective new employees are required to submit to a physical examination to determine their ability to safely and effectively perform the requirements of the position applied for. The physical will be conducted by the City of Auburn's consulting physician/clinic.

**Drug Testing** - All prospective new employees are required to submit to pre-employment drug testing. Drawing and preparing the drug testing sample for mailing to the City of Auburn's current provider of these services will be conducted by the City of Auburn's consulting physician/clinic.

**MVR Records** - Driving records will be obtained from an outside vendor with which the City of Auburn has contracted and will be requested on all prospective employees. Prospective employees may be required to hold a valid State of Nebraska Motor Vehicle License.

**Security/Background Check** - In order to verify the qualifications and backgrounds of individuals before being hired into positions, the City of Auburn will conduct a pre-employment background investigation on final candidate(s).

Background investigation will be performed by an outside vendor with which the City of Auburn has contracted. Background checks will be completed prior to an offer of employment.

A background investigation may include, but not be limited to:

- (i) a criminal history check including in all former States of residency;
- (ii) a social security number trace; and/or
- (iii) a credit history report.

All information received in the background investigation process will be maintained in confidential, secure file, separate from employee personnel files, with access allowed only to those who have a need to know.

An applicant whose background history would indicate a possible risk in the view of the Mayor or City Council may not be hired.

**F. Evaluations:**

1. **Purpose** - To have a formal system of employee evaluations. To set forth occasions of rating, categories subject to evaluation, define performance rating and provide information on the evaluation process.
2. **Background** - The purpose of the Employee Evaluation is to help develop better service and better employees through periodic appraisal and recording of the employee's performance on the basis of consistent standards. Its objective is to let management and the employee know how the employee is performing job duties, strong points as well as those which are weak, giving recognition for good work and providing a guide for improvement. It should provide a guide for mutual work planning and review and an opportunity to convert daily impressions into a more objective history of work performance, followed by open-minded discussion of the performance with the employee.
3. **Occasions for Evaluation**
  - a) New or Promoted Employees: After six (6) months of time during the introductory period for a new or promoted employee.
  - b) Annual Appraisal: Each full and part-time employee may receive a performance appraisal at least annually.
  - c) Supplemental Appraisal: Management, at its option, may perform supplemental performance appraisals at any time.
  - d) Employee Requested Appraisal: The employee has the option to request and receive a performance appraisal not more often than once every 90 days.
4. **Performance Subject to Evaluation** - All Employees may be subject to basic performance appraisals. Management should consider the performance skills as listed on the Evaluation Forms as they pertain to their employees. Evaluations may consider: managing change, interpersonal skills, communication, quality of work, dependability, innovation, judgment, use and care of the City of Auburn materials and equipment, volume of work, job knowledge, adaptability, analytical skills, attendance & punctuality, teamwork & cooperation, initiative, personal appearance & neatness, job attitude, and use of safety equipment.
  - a) In addition to the Personal Traits listed on the Employee Evaluation Form, the Department Head and Employee may choose

between two and three additional categories related to the employee's specific job.

b) The employee and Department Head shall annually decide on between two to five goals for the following year and the employee shall be rated on meeting the previous year's goals.

**5. Ratings for Appraisal Categories** - Basic ratings shall be utilized, as follows:

4-Clearly Outstanding: Means exemplary performance far exceeding performance criteria.

3-Exceptional: Means performance which exceeds the level the supervisor normally expects.

2-Satisfactory: Generally meets supervisor's expectation on performance criteria.

1-Some Deficiencies Evident: Erratic performance on criteria, falling short of that normally expected and requires remedial attention.

0-Unsatisfactory: Performance which must receive immediate attention. If an employee receives a rating of "Unsatisfactory" for overall performance, that employee must receive another appraisal in 60 days. If the second appraisal also results in an overall rating of "Unsatisfactory", the employee may be dismissed from employment with the City of Auburn.

**6. Relationship to Discipline** - Performance appraisals are in themselves neutral in character and not disciplinary actions. Their function is to document opinion on performance in a candid way. However, an overall rating of *Unsatisfactory* shall result in a re-rating in 60 days. If the second appraisal also results in an overall *Unsatisfactory* appraisal, the employee may be dismissed.

**G. Orientation Period and Wages:** All new employees will be subject to a minimum of a six (6) month orientation period. At the end of the orientation period (or earlier under supervisor discretion), the employee's work will be reviewed, and a determination will be made regarding the continuation of the employee's employment. Wage scales will be adopted by the City of Auburn from time to time. Upon recommendation of the supervisor, Mayor or City Council, and approval by the City Council, an employee may be granted a discretionary merit increase (amount to be determined by the City Council with recommendation by the supervisor) for superior accomplishment. Taxes, social security and other deductions from pay will be made as required by law.

**H. Resignation:** Employment at the City of Auburn is "at will," meaning any party may terminate the employment relationship at any time and for any reason. Voluntary resignations must be made in writing. Any oral resignations will be treated as leave without approval, unless authorized by the Department Head or Mayor. Under leave without

approval, an employee may be terminated for "job abandonment" after 3 days of leave that has not received prior written approval. If the employee wants their formal records to indicate "voluntary resignation", they must so request in writing to the City Clerk's Office.

- I. **On-Call Policy and Procedure:** Certain employees are designated as "subject to call or standby call". Employees and Officers of the City Streets Department and the City Police Department should refer to his/her department head or department policy and procedure manual for specific procedures or requirements to be followed in his/her department.

Being "subject to call" is defined as being available, as scheduled, for service work during all non-business hours. "Standby call" is defined as being subject to call if more than the scheduled employees are needed, or in the case of an emergency.

Call duty is alternated. Employees are on call for one week intervals ("call week"). The call week is defined as from 5:00 P.M. on Sunday until 5:00 P.M. the following Sunday. Frequency of an employee being on call is determined by the number of employees who are trained to take call. A call schedule, when necessary, shall be posted by department.

In an emergency situation all trained personnel shall be subject to call.

On-call employees need to be within a reasonable response time of the Service Center or Department Headquarters when on Call Duty and shall be able to respond to the call promptly after they are notified. Employees who are on call are also required to be fit for duty. It is the responsibility of the employees who are on call to be able to be contacted by dispatchers. If employees are away from their home number, employees should contact the Dispatcher and notify them of the best way they can be contacted. If employees are on a cell phone, contact the dispatcher and let them know.

You are directed to your Department Head or Department personnel manual for specific instruction and direction for on-call duty.

## **VI. BENEFITS**

The following is a summary of benefits available to employees of the City of Auburn, who meet all of the eligibility requirements described, and who meet all other conditions described in any applicable insurance policy or separate benefit plan. Unless otherwise indicated, part-time and temporary employees are not covered by any of these benefits. Please bring any questions about any employee benefit to the City of Auburn office.

- A. Vacation:** Full time employees are eligible for paid vacation as stated on the following chart. Available vacation is based on full-time work and is reduced proportionately for absences other than vacation time, paid sick leave, paid funeral leave, and holidays. Vacation is earned as follows:

<b>Years of Completed Employment</b>	<b>Vacation Hours Earned Per Year</b>	<b>Maximum Earned Vacation Hours Allowed to be carried by an employee</b>
1 <sup>st</sup> yr hired before July 1st	5 days	5 days
2-9 years	10 days	15 days
10-19 years	15 days	23 days
20+ years	20 days	30 days

Anniversary date of all vacation is January 1<sup>st</sup>. Paid vacation is considered earned and available only under the following conditions:

- Only employees who continue to be employed in good standing at the time vacation is taken may receive paid vacation benefits.
- Any earned but unused vacation time will be paid upon retirement or termination from employment.

Vacations should be scheduled to best fit in with the workload of the City of Auburn and scheduling must be approved by employee's supervisor. Vacation must be taken in no increment less than 8 hours and in blocks of 5 consecutive work days, with the exception of 5 days per a calendar year that can be taken in individual days preferably days are declared early in the year for scheduling and to assist supervisors. If an employee earns 20 days vacation they may also break up the last five days into individual days of vacation provided the prior 15 days of vacation have been used.

All employees receiving more annual vacation at the date of adoption of this personnel policy by the City Council then the amount of time allotted hereinabove shall be allowed to maintain his/her stepped-up vacation basis until his/her vacation time is increased under the above stated vacation table or unless it is otherwise terminated by the terms of this personnel policy.

**B. Holidays:** Employees receive nine and one-half (9.5) paid holidays per year, as follows:

New Years Day	the Day after Thanksgiving Day
Memorial Day	Christmas Eve Afternoon (4 hours)
Independence Day	Christmas Day
Labor Day	Designated Holiday <sup>(1)</sup>
Thanksgiving Day	Veteran's Day or Employee's Birthday <sup>(2)</sup>

<sup>(1)</sup> At the December Council Meeting each year, the City Council shall designate the extra Holiday for the following year; and

(2) Please refer to Department head or Department manual to for specific holiday observed by your Department. Another day, in lieu of the employee's actual birthday, may be used with supervisor's approval.

If a holiday falls on a Saturday, the prior Friday will be off; or if on Sunday, then the following Monday. Holiday pay is based on an employee's regular working hours and is at a rate of pay of time and a half for each hour worked.

**C. Sick Leave:** Employees earn 8 hours of sick leave for each full month worked (maximum of 96 hours per year to be allowed to accumulate as paid sick leave). Sick leave continues to be earned each month unless an employee is absent for 5 or more days in a month (except for vacation), at that point the hours earned will be prorated according to days worked, i.e.: off 5 days, accrue 6 hours. No sick leave will be earned during time off charged against workers compensation. For FMLA Leaves see VI. G. *Pay and Benefits*. For Drug/Alcohol Leave of Absence see *Attachment 2 - Rehabilitation*.

Unused sick leave may be carried over each year up to a maximum of 384 hours. No earned but unused sick leave will be paid upon termination, retirement or death.

To be eligible to use paid sick leave, employees must notify their supervisor prior to the beginning of their shift, of their need to use sick leave; and may be required, in the discretion of the supervisor, to provide a physician's note prior to returning to work, or be examined by a physician hired by the City of Auburn. Sick leave may be used for illness of the employee, employee's spouse, child, or parent; or as approved by employee's department head/supervisor. Falsification or abuse of sick leave in any way may result in corrective action up to and including discharge from employment.

**D. Funeral Leave:** Employees will be allowed paid time off for the death of the employee's spouse, parent, mother-in-law, father-in-law, foster parent, child, foster child, sibling, grandparent, grandchild, or any relative residing in the employee's household, generally from the date of death until the day after the funeral. In the case of death of another relative or a close friend, one-half day will be allowed. Any time off needed beyond these allowances will require prior supervisor approval and be charged as vacation time, if available.

**E. Family & Medical Leave of Absence:** The Family and Medical Leave Act (the "Act") requires covered employers to provide up to 12 weeks of unpaid, job protected leave to eligible employees for the following:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;

- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

Such a leave is referred to in this policy as "FMLA leave." This policy defines the terms and conditions of FMLA leave. The Act and the regulations of the Department of Labor shall be referred to for any questions not addressed by this policy. The City of Auburn shall determine in each case whether an absence qualifies as FMLA leave. The City of Auburn has chosen to require the use of other paid time off while taking FMLA leave.

**Eligibility:** To be eligible for leave under this policy, the employee must have been employed by the City of Auburn for at least twelve (12) months in the last seven (7) years; and worked at least 1,250 hours for the City of Auburn during the twelve (12) months preceding the commencement of the leave. Lack of eligibility for FMLA leave does not necessarily preclude eligibility for other benefits.

**Duration:** An employee's cumulative total of all leaves of absence under this policy may not exceed twelve (12) weeks in any twelve (12) month period. The 12-month period will be measured on a rolling 12 month period from the date an employee uses any FMLA leave. A husband and wife who are eligible for FMLA leave and are employed by the City of Auburn are limited to a combined total of 12 weeks of leave during any 12-month period if the leave is taken to care for the employee's parent with a serious health condition, for the birth of the employee's son or daughter or to care for the child after the birth, or for placement of a son or daughter with the employee for adoption or foster care or to care for the child after placement. FMLA leave for the birth of a child or placement of a child for foster care or adoption must be completed within one (1) year after the birth or placement.

**Intermittent/Reduced Schedule:** An employee does not need to use this leave in one block. Leave may be taken on an intermittent or reduced schedule basis only when the leave is because of a serious health condition, and the intermittent leave or reduced schedule is shown to be medically necessary. Medical certification of this need will be required. Where the intermittent leave or reduced schedule is foreseeable, the employee must try to schedule the leave so as not to unduly disrupt City of Auburn operations, and if the employee needs to be absent due to planned medical treatments, the employee may be temporarily transferred to an alternative position with equal pay and benefits for which the employee is qualified and which better accommodates the intermittent or reduced schedule leave.

**Unable/Decline to Return:** An employee who is unable or declines to fully return to work upon expiration of FMLA leave will be considered to have resigned, unless the inability to return is due to a disability under the Americans with Disabilities Act and the employee requests and can reasonably be granted additional accommodation. Exceptions may be approved by the City in extraordinary circumstances.

**Notices and Certifications:** Employees must provide at least 30 days advance notice of the need to take FMLA leave, when the need is foreseeable, to the appropriate City of Auburn representative. When 30 days notice is not possible, the employee must provide notice as soon as practicable and must comply with the City of Auburn's normal call-in procedures required for other absences. If less than thirty (30) days notice is given, the employee must explain why providing timely notice was not practicable.

Notice must be provided either in writing (for foreseeable leave only) or by calling (for either foreseeable or unforeseeable leave). When requesting leave for the first time for a particular FMLA-qualifying reason, the employee must provide sufficient information for the City of Auburn to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions; a family member is unable to perform daily activities; the need for hospitalization; or continuing treatment by a health care provider. Calling in "sick" is not enough.

Employees must also inform the appropriate City of Auburn representative if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

The City of Auburn must inform employees requesting leave whether they are eligible under the FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities with regard to FMLA leave. If an employee is not eligible, the City of Auburn must provide a reason for the ineligibility. The City of Auburn will generally notify an employee within five (5) business days whether he/she is eligible for FMLA leave.

**Medical Certification:** An employee on leave due to a serious health condition of the employee or a family member must provide a written medical certification on a form adopted by the City of Auburn. This requirement may be waived by the City in cases of pregnancy or other situations where both the medical need and the

timing of the leave are obvious. The certification must be provided prior to commencement of the leave, when the need for leave is foreseeable; in any case, it must be provided within fifteen (15) days after it is requested. Failure to return the medical certification, absent unusual circumstances, will cause the City of Auburn to deny the FMLA leave. Where the leave is due to the employee's own serious health condition, the employee must provide a copy of his or her current job description to the health care provider before obtaining the certification. A copy of the job description will be provided to the employee by the City of Auburn City Clerk's Office or Department Head. The City of Auburn may require a second and third opinion, at the City of Auburn's expense, in accordance with the Act.

The City of Auburn shall notify the employee within five (5) days of receipt of a complete and sufficient medical certification whether the leave is FMLA-qualifying. If the City of Auburn is unable to determine whether the leave is FMLA qualifying because (a) the medical certification is incomplete or insufficient, or (b) the City of Auburn requires a second or third opinion, it will notify the employee. The City of Auburn shall notify the employee in writing if the medical certification is incomplete or insufficient, and state the information needed to cure the deficiency. The employee shall have seven (7) calendar days to cure the deficiencies, or FMLA leave will be denied.

**Recertification:** Medical recertification must be provided within fifteen (15) days after requested by the City of Auburn during the leave. For intermittent leave for continuing, open-ended conditions, recertification may be requested every six (6) months. In addition, recertification may be requested when (1) there is a significant change in condition, (2) an extension of the leave is requested, or (3) the City of Auburn receives information which casts doubt on the continuing validity of the certification.

The following forms are available upon request from the City of Auburn City Clerk's Office: 1) "Request For Leave of Absence," 2) "Notice To Employee Regarding Family And Medical Leave," 3) "Family And Medical Leave Medical Certification," and 4) "Return To Work Medical Certification Form."

**Regular Reporting:** While on FMLA leave, employees must keep their supervisors informed of their plans to return to work. As a general rule, the employee must contact the supervisor at least once every two (2) weeks. Other reporting schedules may be agreed upon between the employee and his or her supervisor based upon the employee's individual circumstances. Reasonable notice (at least two business days, and more if possible) is required prior to returning to work on any day other than originally scheduled.

**Pay and Benefits:** FMLA leave is unpaid, except as follows:

- a) If the absence is due to the employee's or a family member's serious health condition, accrued but unused sick leave must be applied until it is exhausted. In all other cases, or after sick leave is exhausted, when the absence is due to illness, accrued but unused vacation must be applied until it is exhausted.
- b) If the absence is due to a job-related injury, the employee may be covered by worker's compensation. While the employee is receiving worker's compensation benefits, the absence will not be counted as FMLA leave. If worker's compensation benefits apply, the employee will not be required to apply any earned but unused paid time off, but may elect to do so to the extent that the worker's compensation is less than the employee's regular salary.

Except as provided above, the FMLA leave shall be without pay.

The employee's group health, life and disability insurance (if participating) will remain in effect throughout the FMLA leave period on the same basis as if the employee were not on leave. During any paid portion of the leave, the employee's premiums will continue to be deducted from payroll; otherwise, payments must be delivered to the City Clerk's Office. Failure to make premium payments may cause the employee (and covered dependents) to be uninsured during a portion of the leave.

No seniority, sick, vacation or other benefits will be earned during FMLA leave; however, if the employee is concurrently using vacation, then the City of Auburn's policy for employees using vacation will apply.

**Fitness for Duty Certification:** An employee may be required by the City of Auburn to provide a sufficient fitness-for-duty certification at the time the employee returns to work or within fifteen (15) days after the employee would have returned to work. The certification must state that the employee may return to work and is able to perform all essential functions of the position. If the fitness-for-duty certification is insufficient or incomplete, the employee shall have seven (7) calendar days to cure the deficiencies. Failure to return a sufficient fitness-for-duty certification in the requisite time period may cause the FMLA leave to be denied, and employment terminated.

For intermittent leave, the City of Auburn may require a fitness for duty certification as often as every thirty (30) days if the health condition involves a contagious disease, or could reasonably affect the employee's, a co-worker's, or a third party's safety.

**Return to Work:** Upon return to work, the employee will be restored to his or her prior job, or an equivalent position with equivalent pay, benefits and other terms and conditions, unless the employment would have ended even if the employee had not been on leave (for example, if the job has been eliminated due to a staff reduction or reorganization, or if the job was temporary and the term of employment has expired). Use of FMLA leave cannot result in the loss of employment benefits that accrued prior to the start of an employee's leave.

Certain "key" employees as defined in the Act may be denied return to work after FMLA leave, if the return would cause substantial and grievous economic injury to the City of Auburn. The employee will be notified in writing that he or she is a key employee at the time the City of Auburn receives notice of the need for leave or at the time leave commences, if earlier. As soon as the City of Auburn makes a determination that restoration of employment would cause substantial and grievous injury, the City of Auburn will inform the employee in question, in writing that it intends to deny restoration of employment and that it cannot deny FMLA leave. The notice will be given in person or by certified mail. The employee who is denied restoration is entitled to health insurance and benefits until the leave period ends or until the employee gives notice he or she will not return to work.

**Failure to Return:** If the employee does not return to work and remains employed for at least thirty (30) days at the end of the approved leave, the employee will be obligated to repay to the City of Auburn, 100% of all insurance premiums paid by the City of Auburn during the unpaid portion of the leave. The only exception is where the non-return to work is due to a continued serious health condition (medical certification is required) or other circumstances beyond the employee's control.

**Definitions:**

"Foster care" is defined as 24-hour care for children in substitution for, and away from, their parents or guardian, in accordance with a placement by the State or an agreement with the State.

"Spouse" is defined as a husband or wife as recognized under state law.

"Parent" is defined as a biological parent, or an individual who stood in loco parentis (who had day-to-day responsibilities to care for the employee) when the employee was a child. A parent "in-law" is not considered a "parent" for purposes of family and/or medical leave.

"Son" or "daughter" or "child" is defined as a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis (has day-to-day responsibilities to care for and financially supports the child). The "son" or "daughter" or "child" must be either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability.

A "serious health condition" is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three (3) full consecutive calendar days combined with at least two (2) visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment. Absent complications or inpatient care, "serious health condition" generally does not include cosmetic treatments, minor conditions such as the common cold, earaches, headaches, the flu, and so forth, routine doctor's appointments, or treatment with over-the-counter medicines.

A "health care provider" for purposes of medical certification shall include only doctors of medicine or osteopathy, podiatrist, dentists, clinical psychologists, optometrists, chiropractors, state-authorized nurse practitioners, nurse-midwives, clinical social workers, state-authorized physician assistants, and Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.

A certification that an employee is "needed to care for" a sick family member includes both physical and psychological care. It includes situations where the family member is unable to care for his or her own basic medical, hygienic, or nutritional needs or safety, and where providing psychological comfort will be beneficial to a seriously ill family member.

Intermittent or reduced schedule leave is "medically necessary" when the medical need can be best accommodated through an intermittent or reduced leave schedule. The term "medically necessary" does not include voluntary treatments or procedures.

An "equivalent position" is defined as a position which has the same pay, benefits and working conditions; involves the same or substantially similar duties and responsibilities which entail equivalent skill, effort, responsibility and authority; is

available at the same or a geographically proximate worksite where the employee had previously been employed; and is on the same or an equivalent work schedule.

Leave for the birth of a child may include necessary prenatal care, or may begin before the actual date of birth of a child if the expectant mother's condition makes her unable to work. Leave for placement of a child may begin before actual placement if an absence from work is required for the placement to proceed.

**Interference:** The FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under the FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by the FMLA or for involvement in any proceeding under or relating to the FMLA.

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer for enforcement. FMLA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights.

**F. Family Military Leave under the FMLA:** It is the policy of the City of Auburn to grant family military leave under the Family and Medical Leave Act ("FMLA") or, for those individuals employed in Nebraska, under the Nebraska Family Military Leave Act ("NFMLA"), which entitle an eligible employee to take a leave of absence when (1) certain family members in the National Guard or Reserves are on (or have been called to) active duty and there is a qualifying exigency, (2) certain family members in the armed forces, National Guard, or Reserves, suffer a serious injury or illness in the line of duty and the employee wants to care for them, or (3) in Nebraska, the employee's spouse or child has been called to military service scheduled to last 179 days or longer. Such leave is referred to, for purposes of this policy, as "Family Military Leave."

This policy defines the terms and conditions of Family Military Leave. The Act and the Department of Labor's regulations shall be referred to for any questions not addressed by this policy. The City of Auburn shall determine in each case whether an absence qualifies as Family Military Leave.

A growing number of states, including Nebraska, have laws which provide leave to employees who have family members in the military. The entitlements for such leave differ from state to state, and in some cases, from the FMLA. Our policy is to comply with such laws in any circumstances where they apply to City employees.

All leave under this policy runs concurrently with any other leave provided for under federal, state or local law. Employees using Family Military Leave must concurrently use available City of Auburn paid time off.

**Eligibility:** To be eligible for Family Military Leave under this policy, an employee must have been employed by the City of Auburn for at least twelve (12) months in the last seven (7) years, and must have worked at least 1,250 hours for the City of Auburn during the twelve (12) months preceding the commencement of the leave.

**Leave Entitlement:** Family Military Leave under the FMLA provides an unpaid leave for the following reasons:

1. Because of any "qualifying exigency" arising out of the fact that the spouse, son, daughter, or parent of an eligible employee is on active duty (or has been notified of an impending call or order to active duty) in the National Guard or Reserves in support of a "contingency operation" (as defined by federal law);
2. An eligible employee is the spouse, son, daughter, parent, or next-of-kin of a "covered service member" who has suffered a "serious injury or illness" and wants to care for the service member; and
3. Under the NFMLA, when an eligible employee's spouse or child has been called to military service scheduled to last 179 days or longer.

**Qualifying Exigency Leave:** Employees who have a spouse, son, daughter, or parent called to active duty with the National Guard or Reserves may be entitled to up to twelve (12) weeks of leave for a "qualifying exigency." The 12-month period will be measured on a rolling 12 month period from the date an employee uses any FMLA leave. An employee with a spouse, son, daughter, or parent in the armed forces may not take qualifying exigency leave. Qualifying exigency leave may be taken only for the following non-medical, non-routine activities:

1. Short-Notice Deployment Activities: If a military member receives seven (7) or less calendar days' notice prior to the date of deployment, the employee may take up to seven (7) calendar days of Family Military Leave to address any issue arising from the impending call or order to active duty. The seven (7) days begins on the date the military member receives the call or order to active duty.
2. Military Events and Related Activities: An employee may take Family Military Leave to attend any official ceremony,

program, or event sponsored by the military that is related to the active duty or call to active duty status of the military member. The employee may also use qualifying exigency leave to attend family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or Red Cross that are related to the active duty or call to active duty status of the military member.

3. Childcare and School Activities: The employee may take Family Military Leave for any of the following activities necessitated by the military member's active duty or call to active duty status, or circumstances arising from it:
  - To make alternative childcare arrangements for a military member's child;
  - To provide childcare for a military member's child on an urgent, immediate need basis but not on a routine, regular, or everyday basis;
  - To enroll in or transfer a military member's child in a new school or day care facility; and/or
  - To attend meetings with staff at a school or daycare facility.
4. Financial and Legal Arrangements: The employee may take Family Military Leave to make or update financial or legal arrangements to address the military member's absence while on active duty or call to active duty status. Leave may also be granted for the employee to act as the military member's representative before a federal, state, or local agency for purposes of obtaining, arranging, or appealing military service benefits while the military member is on active duty or call to active duty status, up to a period of 90 days following the termination of the military member's active duty status.
5. Counseling Activities: An employee may take leave to attend non-medical counseling provided that (1) the need for counseling arises from the military member's active duty or call to active duty status; (2) such counseling is provided by someone other than a health care provider; and (3) the counseling is for the employee, the military member, and/or the military member's child. In the event medical counseling is needed, the employee may be able to take regular FMLA leave due to the "serious health condition" of the employee or of a military member who is the employee's spouse, parent, or son or daughter as defined in the FMLA.

6. Rest and Recuperation Activities: If a military member is granted short-term, temporary rest and recuperation leave during the period of deployment, an employee may take Family Military Leave of up to five (5) days to spend time with the military member.
7. Post-Deployment Activities: An employee may take Family Military Leave to attend arrival ceremonies, reintegration briefings and events, and other official ceremony or programs sponsored by the military for a period of ninety (90) days following termination of the military member's active duty status. The employee may also take leave to address issues that arise from the death of a military member while on active duty status.
8. Additional Activities Approved by the City of Auburn: An employee may only take Family Military Leave for other exigencies if the exigency arises out of the military member's active duty/call to active duty, and the employer agrees as to the leave's qualification, timing, and duration.

If an employee uses up his or her twelve (12) weeks of FMLA leave for reasons other than Family Military Leave, the employee may be eligible for additional leave under the NFMLA.

**Military Caregiver Leave:** A spouse, son, daughter, parent, or next-of-kin of a "covered service member" who has suffered a "serious injury or illness" and wants to care for the service member, is eligible for up to 26 weeks of Family Military Leave in a "single 12-month period." For purposes of military caregiver leave, the single 12-month period applies per service member, and per injury/illness. An eligible employee may *not* take military caregiver leave for an injury or illness that manifests itself *after* the military discharge; however, the employee may be eligible for leave under the traditional FMLA if the service member is a parent, spouse or child, and the ailment qualifies as a "serious health condition."

During the single, 12-month period, caregiver leave is combined with regular FMLA leave, and the total cannot exceed 26 weeks. If leave qualifies as both military caregiver leave and FMLA medical leave to care for a family member with a serious health condition, it will be counted as caregiver leave first.

**Intermittent/Reduced Schedule:** Family Military Leave taken due to a qualifying exigency may be taken intermittently or on a reduced schedule basis. Family Military Leave taken to care for a covered service member with a serious injury or illness may be taken intermittently, or on a reduced schedule basis, only when medically necessary. Medical certification of this need will be required. Where the intermittent leave or reduced schedule is

foreseeable, the employee must try to schedule the leave so as not to unduly disrupt City of Auburn operations, and may be temporarily transferred to an alternative position with equal pay and benefits for which the employee is qualified and which better accommodates the intermittent or reduced schedule leave.

**Unable/Decline to Return:** An employee who is unable or declines to fully return to work upon expiration of Family Military Leave will be considered to have resigned.

**Notice of Leave:** An employee requesting a leave of absence must notify the Accounting and Finance Manager as far in advance as practicable, or within the same timeframe required for other absences. The employee should make reasonable efforts to schedule leave so as to not disrupt City of Auburn operations. The employee must provide sufficient information as to the reason for the leave, to enable the City of Auburn to determine eligibility for Family Military Leave, and must provide information as to the expected duration of the leave. When requesting leave for the same particular exigency related to the same military member or the same injury/illness for the covered service member, the employee must specifically reference the qualifying reason or state "FMLA leave."

The City of Auburn will notify an employee within five (5) business days whether he or she is eligible for Family Military Leave. If eligible, the City of Auburn will also notify the eligible employee of their rights and responsibilities with regard to Family Military Leave.

**Regular Reporting:** While on Family Military Leave, employees must keep the City Clerk and Department Head informed of their plans to return to work. As a general rule, the employee must contact the City Clerk and Department Head at least once every two (2) weeks; other reporting schedules may be agreed upon between the employee and the Department Head based on the employee's individual circumstances. Reasonable notice (at least two business days, and more if possible) is required prior to returning to work on any date other than the originally scheduled return date.

**Certification:** An employee requesting Family Military Leave must provide written proof of the military member's military status, and call to duty or deployment information, on the form adopted by the City of Auburn to determine whether the leave is FMLA-qualifying. For qualifying exigency leave, the employee must also provide a signed statement and description of facts for each particular exigency. For military caregiver leave, the employee must provide certification of the covered service member's serious injury/illness. These requirements may be waived by the Department Head in cases of emergency or where

both the need and the timing of the leave are obvious. These certifications must be provided prior to commencement of the leave when the need for leave is foreseeable; in any case, it must be provided within fifteen (15) days after it is requested. Failure to return the medical certification, absent unusual circumstances, will cause the City of Auburn to deny the Family Military Leave.

A certification of active duty will remain in effect for the dates of the military member's active duty status for the contingency operation. A certification of a particular exigency will remain in effect for the duration of that exigency.

The City of Auburn shall notify the employee within five (5) days of receipt of a complete and sufficient certification as to whether the leave is FMLA-qualifying. If the City of Auburn is unable to determine as to whether the leave is FMLA-qualifying because the certification is incomplete or insufficient, the City of Auburn shall notify the employee in writing, and state the information needed to cure the deficiency. The employee shall have seven (7) calendar days to cure the deficiencies, or Family Medical Leave may be denied.

**Failure to Provide Notice/Certification:** Failure to provide required notices or certifications may result in a delay in the leave of absence or loss of the protections provided by the FMLA or NFMLA.

**Compensation during Family Military Leave:** Family Military Leave is unpaid, except that employees who have earned paid time off must use such leave concurrently with their Family Military Leave until such paid leave is exhausted. If the City of Auburn's paid time off policies impose lesser notice or certification requirements than this policy, the lesser requirements will apply during the period of paid time off.

**Benefits:** The employee's group health, life and disability insurance (if participating) will remain in effect throughout the Family Military Leave period on the same basis as if the employee were not on leave. During any paid portion of the leave, the employee's premiums will continue to be deducted from payroll. To the extent that payroll does not cover the employee's share of premiums; payments must be delivered to the City Clerk's Office. Failure to make premium payments may cause the employee (and covered dependents) to be uninsured during a portion of the leave period. No seniority, sick, vacation or other benefits will be earned during the Family Military Leave; however, if the employee is concurrently using vacation, then the City of Auburn's policy for employees using vacation will apply.

**Return to Work:** Upon return to work, the employee will be restored to his or her prior job, or an equivalent position with equivalent pay, benefits and other terms and conditions, unless the employment would have ended even if the employee had not been on leave (for example, if the job has been eliminated due to a staff reduction or reorganization).

**Non-Discrimination:** The City of Auburn will not discharge, fine, suspend, expel, discipline, or in any other manner discriminate against any employee who exercises any right provided under the FMLA, NFMLA, and this policy.

**Definitions:** All definitions contained in the FMLA apply to Family Military Leave (excluding the definitions of "son" or "daughter"). Additionally, the following definitions apply to Family Military Leave under the FMLA:

*Active Duty:* The term "active duty" means duty under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

*Contingency Operation:* The term "contingency operation" has the same meaning given such term in section 101(a)(13) of title 10, United States Code.

*Covered Service member:* The term "covered service member" means a member of the Armed Forces, including a member of the National Guard or Reserves, who is on the temporary disability retired list, who has a serious injury or illness incurred in the line of duty or on active duty for which he or she is undergoing medical treatment, recuperation, or therapy, or who is otherwise in outpatient status.

*Next of Kin of a Covered Service member:* This term means the nearest blood relative, other than the service member's spouse, parent, son, or daughter in the following order blood relatives who have been granted legal custody of the service member by court decree or statutory provisions: brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing, another blood relative for purposes of military caregiver leave. When no such designation is made, and there are multiple family members with the same level of relationship to the covered service member, all such family members shall be considered the service member's next-of-kin for these purposes.

*Outpatient Status:* The term "outpatient status," with respect to a covered service member, means the status of a member of the Armed Forces assigned to:

1. A military medical treatment facility as an outpatient; or

2. A unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

*Serious Injury or Illness:* The term "serious injury or illness," for purposes of military caregiver leave, means an injury or illness incurred by the member in the line of duty or on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.

*Son or Daughter of a Covered Service member:* This term means the covered service member's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the service member stood in loco parentis, and who is of any age.

*Parent of a Covered Service member:* A "parent of a covered service member" means the service member's biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered service member. This term does not include parents "in law."

**G. Jury/Election Board/Military Service:** Employees will be granted time off with pay to the extent necessary to serve mandatory jury duty or election board duty. The employee's compensation will be the difference between normal wages for regularly scheduled hours, and the amount of jury duty/election board duty pay, which the employee receives. Employees must provide reasonable notice of their absences when called for jury or election board service, and documentation of pay received for such service. If released from duty during regular working hours, the employee must return to work. Employees who perform and return from military service in the Armed Forces, the military reserves or the National Guard, will receive compensation, benefits, reinstatement and other rights as provided by the laws of the United States and the State of Nebraska.

**H. Health Insurance:** The City of Auburn provides a group health insurance plan for employees who meet the stated qualifications and conditions of the plan. A portion of the premium is paid by the City of Auburn. Employees will receive a handbook from the insurer explaining the program in detail. By law (known as the "COBRA" law), employees and their covered dependents are entitled to continue their health insurance coverage at their own expense for a period of time, in situations where coverage would otherwise end due to job loss, death, divorce, legal separation, or loss of dependent status. If one of these events occurs, the office should be notified immediately so that employee and/or employee's dependents can be provided with additional information and forms.

- I. Life and Disability Insurance:** The City of Auburn provides paid life and accidental death/dismemberment insurance and short-term disability insurance. Covered employees will receive written materials describing the details of these policies.
- J. Pension Plan:** Employees who meet the minimum hours of service and otherwise qualify for the City Pension Plan after a 12-month period of service, commencing on the date of hire and anniversaries thereof, and who make the required contributions, and meet other requirements detailed more fully elsewhere, are eligible to participate in the pension plan, and receive employer contributions in addition to their own contributions. Notification will be provided to each employee when they are eligible to join the pension plan, or before upon request. A "Plan Summary" will be provided to all participants of the plan and is available upon request to any interested party. Details concerning eligibility, voluntary contributions, vesting rights, tax liabilities, termination of employment, withdrawals from the fund and method of payment are covered in the pamphlet. Any matter concerning administration of the plan should be determined with reference to all the rules, limitations and other terms of the complete plan document which is kept on file at the City of Auburn Business Office.
- K. Flexible Spending Plan:** Employees may participate in a flexible spending plan on the first day of the Plan Year (January 1) following the calendar year in which the Employee worked 2,000 or more hours. Employees may choose to set aside funds, pre-tax, for certain benefits. This reduces employee's taxable wages by any qualified amounts set aside. There are generally two broad categories: Unreimbursed medically-related expenses which include things such as medical, dental and vision care expenses that the employee or employee's family members incur and dependent care expenses. Employees will receive additional information prior to their eligibility date.
- L. Other Benefits:** Employees may receive other benefits in accordance with law, funded in whole or in part by the City of Auburn as determined by the City from time to time.
- M. Eye Protection:** Refer to Department personnel policy or manual.

## VII. WORK RULES

**Employees and Officers of the City Streets Department and the City Police Department should refer to his/her department head or department policy and procedure manual for specific procedures or requirements to be followed in his/her department.**

- A. Confidentiality:** Employees may become aware of information about the City of Auburn or fellow employees, which is not considered public information. Examples of this type of information would possibly be: denial of a raise, drug and alcohol testing results, health problems, etc. This information is to be

considered privileged and it is the City of Auburn's employees' duty to keep it confidential.

- B. Corrective Action:** Every place of business must have certain rules of conduct to guide its employees and to maintain proper levels of decorum, harmony and productivity. When the rules are not followed, appropriate corrective action will be taken.

While it is not the City of Auburn's desire to run its employees' lives or create an oppressive work environment, all employees should know what is expected of them, and how their place of work operates.

Employees are expected at all times to comply with the rules of conduct and other guidelines set forth in these personnel policies; to display proper respect for their co-workers; to accept and carry out job assignments; to refrain from insubordination, carelessness, mishandling of City of Auburn property, and repeated absenteeism/tardiness; and to avoid any other conduct which is disruptive or adverse to the best interest of the City of Auburn. Whenever an employee fails to do so, corrective action will be imposed. The nature of corrective action to be imposed will be determined in the discretion of management, depending on the specific circumstances, and the employee's prior work record and conduct. Corrective action may include a verbal or written warning, suspension without pay, probation, discharge, or other appropriate action. Whenever possible, corrective action will be designed to assist the employee in improving his or her performance or conduct, and not to be punitive in nature, but severe action may be taken without prior warning whenever deemed necessary.

- C. Rules of Conduct:** All employees are expected to conduct themselves in a businesslike manner, use common sense, and comply with City of Auburn policy at all times. The following are some specific examples of conduct, which will not be permitted. Naturally, this list cannot be all-inclusive.

- a) Theft, destruction or unauthorized removal from the City of Auburn premises of any property of the City of Auburn, a fellow employee, a customer or a vendor.
- b) Dishonesty of any kind and marking or handling (or allowing the handling) of any time sheet by any person other than the individual to whom it is issued.
- c) Fighting or attempting bodily injury or using profane, abusive or threatening language against any other employee at the workplace or at a City of Auburn sponsored activity.
- d) Practical joking or horseplay.
- e) Reckless, disorderly or immoral conduct, including malicious or idle gossip.
- f) Disobedience, insubordination, failure or refusal to carry out any reasonable assignment.

- g) Repeated negligence, inferior work, and excessive scrap or wasting of materials.
- h) Repeated absence or tardiness, leaving early, or exceeding break time.
- i) Deliberate loafing of any kind, disturbing other employees during working hours, or sleeping on the job.
- j) Withholding or falsifying pertinent information.
- k) Possession of weapons during working time or at the workplace or worksite.
- l) Personal habits offensive to fellow workers or tendency to reflect discredit upon the Employer.

**D. Substance Abuse/Drug Free Workplace:** The City of Auburn is a drug-free workplace. Employees are prohibited from manufacturing, distributing, dispensing, possessing, or using a controlled substance at the workplace or worksite. Also prohibited is the use or possession of any illegal drugs or alcoholic beverages on premises, while on the job, or while performing City of Auburn business, or appearing for work or performing any job duties while intoxicated or impaired by alcohol, illegal drugs, or improper use of prescriptions or over-the-counter medicines. Employees who violate these rules will be subject to corrective action up to and including discharge. Employees whose performance may be impaired by lawful use of prescription drugs must so advise their supervisors, and may be sent home if a safety hazard could exist.

1. The City of Auburn recognizes that drug dependency and alcoholism are health problems, and will attempt to work with and assist an employee who becomes dependent on drugs and/or alcohol. Employees will be assisted upon request in identifying rehabilitation services, referral agencies, or other resources to help the employee in dealing with his or her problem. It is the employee's responsibility, however, to see that such problems do not interfere with proper job performance, or expose others to the risk of harm. All employees are urged to obtain any necessary help before a personal problem becomes an employment problem.
2. An employee convicted of a violation of any criminal drug statute must notify the City Clerk's Office within five (5) days after the conviction. An appropriate sanction shall be imposed, which may include required participation in a drug abuse assistance or rehabilitation program or corrective action up to and possibly including discharge. The City of Auburn may be required to report any convictions or violations of criminal drug statutes to other governmental agencies with which the City of Auburn does business.
3. This policy applies to all employees and applicants as defined elsewhere in the policy, including, but not limited

to employees who are required by law to have a Commercial Driver's License (CDL) or who perform sensitive safety-sensitive duties for the City of Auburn.

**E. Complaints, Grievances & Suggestions:** The City of Auburn respects our employees' opinions, suggestions, and grievances, and will work with our employees whenever possible to resolve concerns or complaints regarding jobs, duties and positions. Employees are encouraged to bring to their supervisor's attention any suggestions for improving their jobs and productivity, suggestions for improving the City of Auburn's performance or working environment, and any complaints he/she may have regarding his/her jobs or individual treatment. Supervisors should be available and willing to listen to employees' complaints and suggestions, and to work together with employees to improve the work environment and resolve problems.

In most cases, grievances should be resolved on a professional basis between the employee and his or her direct supervisor. If the employee believes that the matter cannot be addressed with the immediate supervisor, or has not been properly addressed at that level, the employee should take the matter to the next level of management. If the employee is not satisfied with the resolution at each level of management, the employee may within ten (10) days after the resolution proceed to the next level, including the Mayor and, ultimately, the City Council. At each level, the responsible official(s) may refer the employee back to the prior level if it is felt that the employee has not properly addressed the matter at that level, or may take other steps deemed appropriate to resolve the issue. The employee may be required to put his or her grievance in writing, and/or to meet with other employees or officers to assist in resolving the matter.

**F. Employment of Relatives:** No person shall be employed by the City of Auburn in a position under supervisory authority of, or requiring close job interaction with, a member of that person's family. An applicant or employee will not be hired, transferred, or assigned to a position, when doing so would result in a violation of this policy. If a violation of this policy arises after employment (for example, if two employees marry, and so forth) the conflict will be resolved as follows:

1. The two employees will be asked to make a choice as to which of the two will resign their position. Transfer opportunities for the two employees may be considered, but transfer or continued employment is not guaranteed.
2. If the employees are unable to make a decision as to who will resign their position, the decision will be made by the Mayor, with the support of the City Council.

For the purpose of this policy, "family" shall include spouse, parents, stepparents, spouse's parents, legal guardian, grandparents, children, daughter-in-law, son-in-law, stepchildren, sister, brother, sister-in-law, brother-in-law, step sister/brother, half sister/brother, aunt, uncle, niece, and nephew. In addition, this policy will apply whenever two individuals, though not related by blood or marriage, are living together, or otherwise have a close relationship, which is similar to the relationship of a family member as defined above, as determined in the discretion of the Mayor. Employees are responsible for notifying their supervisor whenever a situation exists which may be covered by this policy.

- G. Identification Card** - Employees issued identification cards must carry them at all times.
- H. Valid Driver's License** - All employees must possess a valid driver's license and for certain jobs (determined by Job Description) must have or be able to acquire (within six months of employment) a Commercial Driver's License (CDL) and any required endorsements. Employees will be reimbursed the additional cost for a CDL license if it is required for her/his position.
- I. Telephone and/or cell phone** - Employees must have a telephone or cell phone so they may be reached in case of an emergency, as all employees are subject to call in an emergency.
- J. Work Injuries** - Employees must immediately report all work related injuries to their supervisors, whether major or minor. The supervisor may require the employee to get medical attention, even if the employee feels that medical attention is not required.
- K. Outside Employment (Employment not for the City of Auburn)** - Regular full-time employment with the City of Auburn is primary employment of City of Auburn employees. An employee shall not engage in any outside employment or business association without first obtaining approval from their Department Supervisor. Failure to comply with the policy may result in disciplinary action.

Approval for outside employment may be limited by any of the following provisions:

1. Outside employment shall not interfere with or be in conflict with the proper performance of employee's duties with the City of Auburn.
2. Association with any business considered as having a questionable reputation that would reflect unfavorably upon the employee or the City of Auburn.
3. Association with any firm owned or operated by another City of Auburn employee within the same division/area.

4. Employee shall not be a principle or in a position of influence in a firm doing business with the City of Auburn.
5. Employee shall not have or hold any employment or contractual relationship with any business entity or agency which engages in business or contractual agreement with the City of Auburn.
6. The number of hours worked per week in outside employment shall not normally exceed one-half (1/2) of the employee's regularly scheduled workweek with the City of Auburn.

Prior to receiving Department Supervisor approval, the employee must agree to these additional provisions:

1. All injuries received while engaged in outside employment must be reported to the employee's Supervisor prior to the employee's next scheduled working day, or sooner, if possible.
2. Final approval is subject to the review and approval of the Mayor and City Council. It is further understood that approval may be cancelled at any time upon ten (10) days written notice to the employee. The request for outside employment or business activity must be renewed by January 31st of each year.

#### **VIII. Conferences, Workshops & Additional Training**

Employees will be encouraged to further their education by attending educational workshops, conferences, or training programs as deemed necessary by management or his/her supervisor. Attendance shall be requested by his/her supervisor to the City Council and is subject to City Council approval. Attendance at official functions, hearings or meetings will be determined by the City Council.

Attendance by appointed officials at educational workshops, conferences, training programs, official functions, hearings, or meetings shall be at the discretion of the City Council.

#### **IX. Meeting/School Expenses**

All claims for reimbursement must be fully justified and must be submitted to the City Clerk for approval by the City Council. Employees and officials will be required to provide a receipt for all expenses incurred.

**A. Allowable Expenses** - When an employee is away from home and on duty, he/she will be reimbursed for actual expenses incurred for reasonable travel accommodations, certain meals, parking, tolls, telephone, and lodging.

**B. Lodging and Meals** - Employees can only be reimbursed for actual meal expenses (including tax. No reimbursement will be allowed for the cost of alcoholic beverages. Rather than impose a set amount for the meal expenses while away from home for meetings or schools, the Mayor and City Council ask the employees to be

conscientious, so that no set dollar amount needs to be enforced. Many lodging facilities provide a special government rate, a reduction of the normal charges, to government employees. All employees must request the government rate for lodging, if applicable.

**C. Automobile Travel** - When attending conferences, workshops or required to travel, the person's private vehicle may be used and mileage will be reimbursed at the current federal allowable rate.

**D. Telephone Calls** - Employees are not allowed to charge long distance telephone calls to the City of Auburn for calls made of a personal nature, except as stated below. All long distance calls that are to be paid by the City of Auburn are those made pursuant to the employee conducting official City of Auburn business. An employee traveling to a location outside the local calling area is allowed one (1) "safe arrival" call upon arriving at the destination. An employee who is in travel status for two (2) or more consecutive days in a week is allowed one (1) personal long distance telephone call for each two (2) days of travel. Additionally, employees may properly be reimbursed for emergency calls approved by the City Council. An example of such is a call made when an employee calls home to inform someone that the travel period has been extended beyond original plans due to unforeseen reasons.

#### **X. Internet, Email and Network Use**

**Acceptable Use of Networks, Internet and Email** - The City of Auburn encourages the use of the Internet and email because it can make communication more efficient and effective. However, internet service and email are the City of Auburn's property and are to be used only to facilitate City of Auburn business. Every employee has a responsibility to maintain and enhance the City's public image and to use the Cities email and internet access in a productive manner. The City of Auburn has established the following guidelines for using email and the internet. Any unauthorized or improper use of email or the internet is not acceptable and will not be permitted. *Nothing within this Section "X. Internet, Email and Network Use" shall be used in such a manner as to interfere with or penalize an Officer of the City Police Department in conducting proper criminal investigations or appropriately carrying out his/her official duties through the Department.*

1. Unacceptable Uses of Networks, Internet and Email - Email and internet access may not be used for transmitting, retrieving or storing any communications of a discriminatory or harassing nature or materials that are pornographic, obscene or x-rated. Harassment of any kind is prohibited. No messages with derogatory or inflammatory remarks about an individual's race, age, disability, religion, national origin, physical attributes, genetic information, or sexual orientation may be

transmitted or forwarded using the City of Auburn's systems or network. No abusive, profane or offensive language may be transmitted through the email or internet systems. The City of Auburn's harassment policy applies in full to email and internet use. Employees do not have a personal privacy right regarding any matter created, received, stored or sent from or on the network, email or internet systems or computers. The City of Auburn's email and internet systems also may not be used for any other purpose that is illegal, against the City's policy, or contrary to the City's best interest. Solicitation of non-City of Auburn business or any use of the City's email or internet systems for personal gain is prohibited.

2. Rules for Electronic Communications - Each employee is responsible for the content of all text, audio or images that he or she places on or sends over the City's network, email or internet systems. Employees may not hide their identities or represent that any email or other electronic communications were sent from someone else. Employees must include their name in all messages communicated on the City's email or internet systems. Any messages or information sent by an employee to another individual outside City business or employment via City's email or internet systems (including but not limited to online services, web mail, discussion groups, list servers, instant messaging, or internet sites) are statements that reflect on the City of Auburn. Despite personal "disclaimers" in electronic messages, any statements may be tied to the City of Auburn. All communications sent by employees via the City's email or internet systems must comply with all the City of Auburn's policies and may not disclose any confidential City information to unauthorized parties. If employees receive unsolicited email from outside City duties or employment that appears to violate this policy, the employee should notify his or her supervisor immediately. Similarly, if any employee accidentally accesses an inappropriate web site in the normal course of business, the employee should notify his or her supervisor immediately. If employees receive excessive, undesired email (also known as "spam"), the employee should not respond, even to request removal from the mailing list. This can have negative consequences, including damage to the security of the City of Auburn's email systems. Rather, the employee should notify their supervisor and request that the sender be blocked from the City of Auburn's email systems if possible.
3. Downloading and Installing Software: To prevent the downloading of computer viruses, malicious code, security threats, unstable or incompatible system files that could contaminate the network, computers, email or internet systems, no employee may download or install software from the internet, an email attachment, a removable disk, or other media without the prior authorization of their supervisor or

the Network Administrator. Any and all software that is downloaded from the internet must be registered to the City of Auburn.

4. Copyright and Trademark Issues: Copyrighted and trademarked material that does not belong to the City of Auburn may not be transmitted by employees on the City's email or internet systems without permission from the holder of the copyright or trademark. Every employee who obtains access to a companies' or individuals' materials must respect all copyrights and trademarks and may not copy, retrieve, modify or forward copyrighted materials, except with permission or as a single copy for reference only.
5. System Security: The City of Auburn reserves the right to routinely monitor how employees use email and the internet. The City may monitor to measure cost analysis/allocation, bandwidth usage and the management of the City's gateway to the internet. All messages created, sent or received over the City's email or internet systems are the City of Auburn's property and should be considered public rather than private information. The City of Auburn reserves the right to access and monitor every message and file on the City of Auburn's computers, network, email or internet systems. Despite the existence of any passwords, employees should not assume that any electronic communication is private. Email messages are transmitted over the public internet as plain text and can be intercepted. Highly confidential information or data should be transmitted in other ways than via normal, unencrypted email.
6. Content: Employees are expected to compose professional messages, write effective subject lines, avoid using all capital letters, not be a party to a flame war, and obey etiquette rules when forwarding messages (delete all email addresses on messages you are forwarding to others, etc.). The City further expects its employees to give messages a final once-over for grammatical errors-typos-tone of the message before sending out, and to use BCC instead of CC when the employee does not want to disclose email addresses of others who are receiving a copy of the email message. If in doubt ask a supervisor.
7. Violations: Any employee who violates these rules or otherwise abuses the privilege of the City's network, email or internet systems will be subject to corrective action up to and including termination. If necessary, the City of Auburn also reserves the right to advise appropriate officials of any illegal activities.

## **XI. Email Retention Policy and Procedure**

**A. Purpose** - The purpose of this policy is to provide guidance on the

use and limited need for retention of emails sent or received by City of Auburn employees. Nothing within this Section "XI. *Email Retention Policy and Procedure*", shall be used in such a manner as to interfere with or penalize an Officer of the City Police Department in conducting proper criminal investigations or appropriately carrying out his/her official duties through the Department.

**B. Email and the Public Records Act** - Email is a method of communication commonly used by the City of Auburn. Most email is a public record when sent or received as part of normal business transactions. Some examples of email messages (including messages with attachments) that are public records include policies and directives, correspondence related to official business, meeting agendas or minutes, official reports, or material that has legal or historic value. Personal email is not a public record. Email related to legally protected issues such as Personnel, Economic Development, Attorney client privilege, etc., are public records but may not be open to the public for review. If there is a question as to whether an email is open to the public, please confer with your supervisor or city attorney's office.

**C. Custodian of email messages** - The custodian of an email message will normally be the originator if that person is a City employee; otherwise, it will be the person to whom the message is addressed once the message has been received. The custodian is responsible for ensuring compliance with the Public Records Act and with the Municipal Records Retention and Disposition Schedule.

**D. Retention of email messages** - (i) Many of the emails that are sent and received have limited or short term value and should be deleted as soon as it no longer serves an administrative purpose. Some examples of this type of email include email that is equivalent to a phone conversation or brief discussion about daily functions, meeting requests, appointment confirmations, general announcements, advertisements, news from other organizations or companies, "junk" emails, personal email, and email that functions as telephone messages.

(ii) For email containing information of lasting value, such as policy interpretation or decision issuance, generally, if the email must be retained for longer than one year, it should be printed and filed as a paper copy. Other emails that are retained should be moved from the server to a personal folder that is stored by hard drive and not on the server, and the folders should be organized logically so that records can be easily retrieved.

## **XII. SOCIAL NETWORKING AND RELATED USE**

**I. Purpose:** The purpose of this policy is to direct the employees of the City of Auburn with respect to the use of the internet, world-wide

web, and other social networking as a medium of communication impacting this the City.

**II. Policy:** The Internet, Web Logs ("blogs"), Social Networking sites (i.e., "Twitter", "FaceBook") and any other mediums of electronic communication shall not be used in a manner which is detrimental to the mission and function of the City of Auburn.

It is essential for every employee of the City of Auburn to recognize that the proper functioning of any government entity relies upon the public's confidence and trust in the individual employees and personnel to carry out the law governmental functions. Therefore, any matter which brings individual employees or the City into disrepute has the corresponding effect of reducing public confidence and trust in City government, thus, impeding our ability to work with and serve the public. Professionalism is the most significant factor in high level performance which, in turn, builds the public's confidence and trust. While employees have the right to use personal/social networking pages or sites, as employees of the City, we are public servants who are held to a higher standard than the general public with regard to standards of conduct and ethics. As such, the policy of the City of Auburn is to maintain a level of professionalism in both workplace and off-duty conduct that fulfills our mission. Any publication, through any medium which is potentially adverse to the operation, morale, or efficiency of the City of Auburn will be deemed a violation of this policy.

**III. Procedure:**

- A.** Employees of the City of Auburn are prohibited from using agency computers for any unauthorized purpose including surfing the internet or participating in social networking sites.
- B.** Employees of the City of Auburn are prohibited from posting, or in any other way broadcasting, without prior supervisor approval, information on the internet, or other medium of communication, the business of the City to include but not limited to:
  - a.** Photographs/images relating to City business;
  - b.** Video or audio files related to City business;
  - c.** Video, audio, photographs, or any other images etc. which memorialize a law enforcement, fire protection, employee or employer conduct or actions which in anyway relate to the City;
  - d.** Logos/Uniforms/Badges or other items/symbols which are associated with the City of Auburn.
  - e.** Any other item or material which is identifiable to the City of Auburn.

- C.** Employees of the City who utilize social networking sites, blogs, twitter or other mediums of electronic communication in his/her off-duty time shall maintain an appropriate level of professionalism and appropriate conduct so as not to broadcast in a manner which is detrimental to the mission and function of the City of Auburn.
- a.** Employees shall not use references in these social networking sites or other mediums of communication which in any way represent him/her as an employee of the City of Auburn without prior supervisor approval. This shall include but not be limited to:
    - i. Text identifying the City of Auburn;
    - ii. Photos depicting the logos, symbols, badge or other identifying marks of the City of Auburn;
    - iii. Accounts of events which occur during employment;
    - iv. Any other material, text, audio, video, photograph, or image which would be identifiable to the City of Auburn.
  - b.** Employees shall not use a social networking site or other medium of internet communication to post any materials of a sexually graphic nature.
  - c.** Employees shall not use a social networking site or other medium of internet communication to post any materials which promote violence or weaponry.
  - d.** Employees shall not use a social networking site or other medium of communication to post or broadcast any materials which would be detrimental to the mission and function of the City of Auburn.
- D.** Employees are prohibited from using his/her title as well as any reference to the City in any correspondence to include emails, postings, blogs, twitter, social network sites such as Facebook, unless the communication is of an official nature and is serving the mission of City employment. This prohibition also includes signature lines in personal email accounts. An employee may seek approval for such use.
- E.** New employees: All candidates seeking employment with this agency shall be required to complete an affidavit indicating his/her participation in any social networking sites. This affidavit shall include the name of the sites. The candidate shall provide the City of Auburn or its representatives with access to his/her site as part of any background examination.

**F. Administrative Investigations:** Employees who are subject to administrative investigations may be ordered to provide the City with access to his/her social networking site when the subject of the investigation is directly, narrowly, and specifically related to the employee's performance or ability to perform his or her function within his/her employment or when the subject of the investigation is potentially adverse to the operation, morale, or efficiency of the City of Auburn.

### **XIII. Health and Safety**

**A. Health and Safety in the Workplace:** The personal safety and health of each employee of the City of Auburn is of primary importance. The prevention of occupationally induced injuries and illnesses is of such consequence that it will be given precedence over operating productivity whenever necessary. To the greatest degree possible, the City of Auburn will provide all mechanical and physical facilities required for personal safety and health, in keeping with the highest standards. The City of Auburn will maintain a safety and health program conforming to the best practices of entities of this type. To be successful, such a program must embody the proper attitudes toward injury and illness prevention on the part of both Supervisor and employee, but also between each employee and his/her fellow workers. Only through such a cooperative effort can a safety record in the best interest of all be established and maintained. The City's objective is a safety and health program that will reduce the number of disabling injuries and illnesses to a minimum, not merely in keeping with, but surpassing, the best experience of other operations similar. . The City's goal is ZERO accidents and injuries. The City of Auburn's safety and health program will include:

- a) Providing mechanical and physical safeguards to the maximum extent that is possible.
- b) Conducting a program of safety inspections to find and get rid of unsafe working conditions or practices; to control health hazards; and to comply fully with the safety and health standards for every job.
- c) Training all employees in good safety and health practices.
- d) Providing necessary personal protective equipment and instructions for its use and care.
- e) Developing and enforcing safety and health rules; requiring that employees cooperate with these rules as a condition of employment.

- f) Investigating, promptly and thoroughly, every accident to find out what caused it and to correct the problem so that it won't happen again.

The City of Auburn recognizes that the responsibilities for safety and health are shared:

- a) As your employer, the City of Auburn accepts the responsibility for leadership of the safety and health program, for its effectiveness and improvement and for providing the safeguards required to ensure safe conditions.
- b) Department heads/supervisors are responsible for developing the proper attitudes toward safety and health in themselves and in those they supervise; and for ensuring that all operations are performed with the utmost regard for the safety and health of all personnel involved, including themselves.
- c) As employees, you are responsible for wholehearted, genuine cooperation with all aspects of the safety and health program - including compliance with all rules and regulations, and for continuously practicing safety while performing your duties.

Maintaining a healthy and safe workplace is top priority at the City of Auburn. All employees need to report unsafe conditions to their supervisor. Because the City of Auburn maintains several diverse types of Departments and personnel are working in the field in all types of conditions, it is necessary to follow safety rules.

The consequences for violation of these rules are as follows:

Violations occurring within a two-year period:

- 1<sup>st</sup> Violation: Verbal Warning (with written documentation)
- 2<sup>nd</sup> Violation: Written Warning
- 3<sup>rd</sup> Violation: One Day Off Without Pay
- 4<sup>th</sup> Violation: Three Days Off Without Pay and Reprimand before Safety Department/Committee or Department Head and Mayor.
- 5<sup>th</sup> Violation: Termination

However, it should be noted that a serious violation of the safety rules, which might result in significant danger to the employee, other employees or the general public, may require elimination of some or all of the first five steps.

Refer to Department Manuals for additional safety rules and information.

**B. Vehicle Accident** - In the event you are involved in an accident moving or non-moving with a City of Auburn vehicle or equipment the following procedure shall be followed:

- a) Immediately call the Department Supervisor (or Sheriff's Dispatcher if Office is closed) to report that you were in an accident.
- b) Report the following information - Unit #, location, any personal injury, type of property damage, and vehicle damage.
- c) Notify Supervisor/Dispatcher if you called 911 or if Supervisor/Dispatcher should contact rescue personnel.
- d) Verify Supervisor/Dispatcher will contact appropriate law enforcement officials.
- e) Do not make determinations of fault or liability to anyone.
- f) Attend to anyone needing assistance as a result of the accident.
- g) Obtain the names and addresses of all persons involved including witnesses.

- 1. Do not make any statement concerning the facts of the accident except to law enforcement officers or to an identified representative of the City insurance carrier.

After receiving permission from law enforcement to leave the scene, promptly report to your Supervisor so he/she can notify the City of Auburn's Insurance Claims Administrator.

**XV. CITY EMPLOYEE RECEIPT AND ACKNOWLEDGMENT**

I have received and reviewed a copy of the "Personnel Policies" of the City of Auburn, and agree that I will comply with and be bound by these policies. I understand the policies are not a contract, the City Council has the right to interpret and change these policies in its discretion, and my employment is not under an employment contract or for any guaranteed period but is "at-will" as described in the personnel policies.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

## ATTACHMENT 1

### Drug and Alcohol Testing: Non-Drivers

**Introduction:** Alcohol or drug abuse by employees of the City of Auburn presents a number of unacceptable risks, including:

- Risk of injury to coworkers, or members of the public, from accidents caused by an individual who is under the influence of alcohol or drugs.
- Risk of harm to the organization, through reduced productivity, increased absenteeism, damage to property, or damage to our reputation.
- Risk of physical, mental, emotional, and economic harm to the employee who is abusing drugs or alcohol, and to his or her family and friends.

The City of Auburn is committed to maintaining a drug-free and alcohol-free workplace in the interest of safety and efficiency for all concerned. Compliance with the City's Drug-Free and Alcohol-Free Workplace Policy is a condition of continued employment, and any violation of this policy will be dealt with as outlined herein.

**Policy Statement:** The City of Auburn is a drug-free workplace, and does not permit drug or alcohol abuse by its employees. Violation of any of the rules and regulations, procedures, or requirements of this policy will result in corrective action. Depending on the circumstances, appropriate corrective action may include termination from employment, suspension, warning, probation, or any lesser sanction; reassignment, supervision, or limitation of responsibilities; or other action deemed to be commensurate with the problem.

#### **Rules and Regulations:**

- a. Use or Possession at Work. The use or possession of alcoholic beverages or illegal drugs, and the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, while on City office or department property, on the job, or performing City business, is prohibited.
- b. Intoxication/Impairment. Appearing for work or performing any job duties or City business while intoxicated or impaired by alcohol or drugs is prohibited. Employees who are believed to be intoxicated or impaired on the job may, in addition to any other appropriate action, be suspended, sent home or reassigned for safety reasons while the situation is evaluated.
- c. Off-Duty Use. The use of alcohol off duty and off premises in any manner which results in intoxication or impairment on the job, which adversely affects attendance or job performance, or which otherwise adversely reflects on the employer, is prohibited. The use of illegal drugs by employees, whether on or

off duty and whether on or off premises, is prohibited under all circumstances.

- d. Legal Drugs. The use of legal drugs (over the counter or prescription medications) not in accordance with doctor's orders and/or manufacturer's recommendations is prohibited and considered abuse. Abuse of legal drugs shall be considered to be the same as use of illegal drugs under this policy. If use of legal drugs in accordance with doctor's orders and/or manufacturer's recommendations may impair the employee's ability to safely and effectively perform his or her job, the employee must so notify his or her supervisor in advance, so that any necessary arrangements can be made to protect safety and productivity.
- e. Job Applicants. The City of Auburn will not hire a job applicant who is known to be currently abusing alcohol or legal drugs, or currently using illegal drugs.

**Right of Inspection:** The City of Auburn reserves the right to inspect at any time all vehicles, lunch containers, purses, boxes, packages, desks, lockers and other personal property of employees or in an employee's possession on work time for the purpose of enforcing this policy or other safety and security reasons.

**Drug and Alcohol Testing Policy:** The City of Auburn may require any employee or job applicant to submit to a blood, breath, and/or urine test for drugs or alcohol, in the following circumstances:

- a. Post-Offer. Post-offer testing may be required for all job applicants within specified facilities, working on particular projects, or job categories as determined by department heads, the Mayor or City Council from time to time. Applicants who fail to pass a post-offer drug or alcohol test will be ineligible for employment for a minimum of one (1) year.
- b. Reasonable Cause. The City of Auburn may require any employee to be tested for the presence of drugs or alcohol based on reasonable cause. Reasonable cause shall be defined as a reasonable suspicion, by a supervisor or above, concurred in by the Mayor that an employee's faculties are impaired on the job or that an employee has used or possessed illegal drugs. This determination of a reasonable suspicion may be based on a variety of factors, including but not limited to:
  - (1) Direct observation, or reliable reports from coworkers or others.
  - (2) Possession of drugs or alcohol on the premises, or use of drugs or alcohol at work, prior to work, or on break.
  - (3) Behavior, speech or other physical signs consistent with impairment.
  - (4) A pattern of abnormal conduct or erratic behavior, which is not otherwise satisfactorily explained.

(5) Accidents, on the job injuries, or property damage.

(6) A combination of some of the above factors, and/or other factors to be determined by the Department head or City Council.

Determination of whether reasonable cause exists shall be discretionary and shall be final.

- c. Random. Random drug testing, from time to time, may be required of all employees. Selection of covered employees to be tested (randomization) shall be conducted by the City of Auburn's testing service provider according to systems established by the provider, which shall notify the City of the employees to be tested. Random testing may be conducted at unannounced times spread throughout the year.
- d. Follow-up Testing. The City of Auburn may require a current employee to undergo testing during or following completion of a concern under this policy, without prior notice that such a test will be conducted.
- e. Workplace Accident Testing: In conjunction with the investigation of any accidents in the workplace, where the accident results in (1) an injury to a person other than a minor injury requiring only first aid treatment and which did not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job; or (2) when the accident results in an injury to a non-employee other than a minor injury; or (3) which results in damage to property, including equipment, in an amount reasonably estimated at the time of the accident to exceed more than \$500.00, the Department head or Mayor may require employees to submit to drug or alcohol testing.
- f. Rehabilitation Testing. The Mayor may require a current employee to undergo testing during or following completion of an evaluation or rehabilitation, without prior notice that such a test will be conducted.
- g. Refusal to Submit to Testing. Refusal to submit to or cooperate in the administration of requested testing will result in termination of employment. This includes the use of any adulterant.

**Testing Process:**

- a. Scope. Drug and alcohol testing of applicants or employees may include a urinalysis, breath analysis and/or blood sample testing as determined by the City of Auburn the testing service provider and state law. Testing may include, but may not be limited to, detecting the presence of marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), and any adulterants. The City of Auburn may increase or decrease the list of substances for which testing is conducted at any time, with or without notice. In addition, the City of Auburn may require separate samples if multiple tests are conducted. Test levels and standards will be

established by the Mayor and the testing service provider.

- b. Confirmation. Initial positive tests shall be confirmed using a second test in accordance with applicable law.
- c. Specimen for Testing. Testing shall be conducted at a location designated by the City of Auburn. Job applicants and employees selected for testing shall appear and provide the necessary sample at the precise time and place specified by the City of Auburn. Employees tested based on a suspicion that the employee may be impaired shall be transported to the testing site by a supervisor or another person designated by the Supervisor or Mayor. The applicant and/or employee must sign any consent requested and provide any other requested information; failure or refusal to do so may result in discharge or denial of employment.
- d. Specifying Current Legal Use. The City of Auburn will afford applicants and employees subject to testing the opportunity, prior to testing, to list all prescription and non-prescription drugs and controlled substances they have used and to explain the circumstances surrounding the use of such drugs and controlled substances. Failure of any employee to adequately establish a legal basis for the use of any drug or controlled substance with respect to which the employee tests positive shall constitute a violation of this policy.
- e. Approval Form. Applicants and employees, prior to testing, must sign an approval form agreeing to the testing, authorizing the release of test results to the City of Auburn, the employee's supervisor or department head, and the Mayor; or other persons on a "need-to-know" basis. The City of Auburn will obtain the results of the above referenced analyses and communicate or disclose such results to the employee's supervisor or Department head, or any other person in accordance with these policies and procedures.
- f. Testing an Injured Employee. An employee who is seriously injured and cannot provide a specimen at the time of the accident shall provide the necessary authorization to obtain hospital reports and other documents that may indicate whether there were any controlled substances or alcohol in his/her system.
- g. Notification of Results. Employees and applicants will receive notification of positive test results and will be given an opportunity to explain such results. Failure to timely respond may result in an uncontested positive verification.

**Rehabilitation:**

- a. Purpose and Responsibility. The City of Auburn will attempt to work with and assist an employee who becomes dependent on drugs and/or alcohol. Employees will be assisted in identifying rehabilitation services, referral agencies, or other resources to help the employee in dealing with his or her problem. It is the employee's responsibility, however, to see that such problems do

not interfere with proper job performance or expose others to the risk of harm. All employees are urged to obtain any necessary help before a personal problem becomes an employment problem.

- b. Evaluation and Treatment. An employee may be allowed at the discretion of the department head and Mayor, as an alternative to discipline or discharge for violation of this policy, to undergo an evaluation for chemical dependency. This alternative may be offered on a case-by-case basis, in the sole discretion and approval of both the department head and Mayor. If recommended by an evaluation, enrollment in and successful completion of an approved program of chemical dependency or alcoholism treatment may be offered only once as an alternative to disciplinary action of an employee (not applicable to job applicants) and as a condition of continuing employment. Eligibility to return to work, and any special conditions on the employee's work, shall be determined on a case-by-case basis considering all relevant circumstances, including the City of Auburn's interest in safety and operational efficiency.

**Records:** The City of Auburn shall not release the individual test results of any employee or applicant to any person outside the City entity, without first obtaining written authorization from the tested employee or applicant, unless otherwise authorized by law. Information will be released only to those employees and agents who have a legitimate need to know the information for business purposes.

**CITY EMPLOYEE/APPLICANT CONSENT TO DRUG/ALCOHOL TEST**

Name: \_\_\_\_\_

Position: \_\_\_\_\_

By signing below, I verify that I have received the City of Auburn's policy for a drug and alcohol-free workplace. I consent to abide by that policy and to provide a sample of my blood, breath and/or urine for laboratory testing to determine the presence of drugs, alcohol and/or adulterant in my body if required. I understand and agree that if the sample I provide tests positive, I may be subject to corrective action and/or denial of employment. I also understand and agree that the test results will be made known to employees and agents of the City of Auburn with a legitimate need for the information in the performance of their jobs, and to others if required by law.

\_\_\_\_\_  
Employee/Applicant Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

## ATTACHMENT 2

### Drug and Alcohol Testing: Drivers

**Introduction:** It is the policy of the City of Auburn that any drivers shall be free from drug and alcohol abuse. Consequently, the use of illegal drugs or improper use of alcohol by drivers is prohibited. The overall goal of drug and alcohol testing is to ensure a drug-free and alcohol-free transportation environment and to reduce accidents, injuries and fatalities. The requirements of this policy are in addition to other requirements established by federal and state law and the City's policy regarding the use of alcohol and drugs. In some instances, those laws or policies may be more restrictive than the requirements set out in this policy.

The City of Auburn is required under the provisions of the Federal Omnibus Transportation Employee Testing Act of 1991 to implement a drug and alcohol testing program for all persons subject to commercial driver's license requirements. This program includes administering the following types of drug and alcohol tests to such drivers: reasonable suspicion, random, post-accident, return-to-duty, follow-up and pre-employment.

**Implementation Date:** The testing program referred to in this policy shall be implemented on March 1, 2011.

**Definitions:** For the purpose of this policy, the following terms are defined:

**Alcohol** - The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl and isopropyl alcohol.

**Driver** - Any person whose City job description requires them to possess a valid commercial driver's license or, in the case of pre-employment drug testing as prescribed by this policy, any person applying for a position which requires them to possess a valid commercial driver's license. This includes full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operated contractors.

**Drug** - Those controlled substances set forth in the Regulations, including any of the following controlled substances: marijuana, cocaine, opiates, amphetamines and phencyclidine (PCP).

**Medical Review Officer (MRO)** - A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the City of Auburn's drug testing program who meets the qualifications outlined in the Regulations.

**Regulations** - Those regulations promulgated by the Department of Transportation found at 49 CFR part 40, and the regulations promulgated by the Federal Highway Administration found at 49 CFR part 382, as amended from time to time.

**Safety-Sensitive Function** - Includes all on-duty functions performed from the time a driver begins work or is required to be ready to work until he or she is relieved from work and all responsibility for performing work.

**Substance Abuse Professional** - A licensed physician or certified psychologist, social worker, employee assistance professional or certified addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug-related disorders.

**Program Coordinator** - The City Council shall designate the program coordinator to implement the alcohol and drug testing program within the guidelines of this policy. Any questions regarding materials given to the drivers should be directed to the Program Coordinator.

**Alcohol and Drug Prohibitions:**

- 1) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater.
- 2) No driver shall be on duty or operate a commercial motor vehicle while the driver possesses alcohol.
- 3) No driver shall use alcohol while performing safety-sensitive functions.
- 4) No driver required to take a post-accident test shall use alcohol for eight hours following the accident or until he or she undergoes a post-accident alcohol test (whichever comes first).
- 5) No driver shall perform safety-sensitive functions four hours after using alcohol.
- 6) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any drug, except when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely perform the function.
- 7) No driver shall report for duty, remain on duty or perform a safety-sensitive function if the driver tests positive for drugs.
- 8) No driver shall refuse to submit to a drug or alcohol test to be administered under this policy.

**Pre-Employment Tests:** Drug tests shall be conducted in accordance with the Regulations before any driver is permitted to perform a safety-sensitive function. Testing for newly-hired drivers shall be conducted after the offer of employment but before employment commences. Offers of employment are contingent on this test result. A refusal to submit to drug testing and/or refusal to release information as required by the City of Auburn shall remove the

applicant from employment consideration. Such testing will also be required of any employee transferring into a position that comes within the scope of this policy.

**Post-Accident Tests** - Alcohol and drug tests shall be conducted as soon as practicable after an accident, involving a City commercial vehicle, on any driver who:

- 1) Was performing safety-sensitive functions with respect to the vehicle, if the accident involved loss of human life; or
- 2) Receives a citation under state or local law for a moving traffic violation arising from the accident.

Drivers shall make themselves readily available for testing or he/she will be deemed to have refused to submit to testing unless such driver has the need for immediate medical attention, in which case, the driver shall provide the City of Auburn with the necessary authorization to obtain hospital or other medical records for use in accordance with this policy.

Alcohol tests must be performed within eight hours following an accident and drug tests within 32 hours. Drivers must follow all post-accident instructions given by the City of Auburn.

Post-accident testing requirements may be fulfilled by properly administered tests conducted by federal, state and/or local law enforcement officials as long as the results of those tests are provided to the City of Auburn City Clerk.

**Random Testing:** Alcohol and drug testing shall be conducted on a random basis at unannounced times spread reasonably throughout the calendar year in accordance with the Regulations. Tests for alcohol shall be conducted just before, during or just after the performance of safety-sensitive functions. Drivers shall be selected by a scientifically valid random process and each driver shall have an equal chance of being tested each time selections are made. Drivers who have been told of their random selections shall, from the point of being informed, devote every one of their actions to providing a specimen. Any action that impedes the proper administration of a test shall be considered refusal to test.

**Reasonable Suspicion Tests:** Any qualified supervisor or City official who has reasonable suspicion to believe that a driver has violated the alcohol or drug prohibitions of the City of Auburn shall require the driver to submit to reasonable suspicion testing. A qualified supervisor or City official must be a person who has been properly trained, in accordance with Regulations, to make a determination that reasonable suspicion exists. This reasonable suspicion must be based on specific, contemporaneous, articulated observations concerning the appearance, behavior, speech or body odors of the driver. Observations regarding suspected drug use may include indications of the chronic and withdrawal effects of drugs.

Alcohol testing is authorized for reasonable suspicion only if the required observations are made just before, during or just after the

period of the work day when the driver must comply with alcohol prohibitions. An alcohol test may not be conducted by the person who determines reasonable suspicion exists to conduct such a test. If an alcohol test is not administered within two hours of a determination of reasonable suspicion, the City Clerk or representative of the City of Auburn shall prepare and maintain a record explaining why this was not done. Attempts to conduct alcohol tests shall terminate after eight hours and the City Clerk or representative of the City of Auburn will state in the record the reasons for not administering the test.

A qualified supervisor or City official who makes observations leading to a reasonable suspicion test shall make a written record of his or her observations within 24 hours of the observed behavior or before the results of the drug test are released, whichever is earlier.

After there has been a determination of reasonable suspicion of alcohol use under this policy, the driver may not return to the performance of a safety-sensitive function until an alcohol test produces the result required by the Regulations or twenty hours have elapsed since the determination of reasonable suspicion.

**Return-to-Duty Tests:** An alcohol or drug test shall be conducted when a driver who has violated the City's alcohol or drug prohibition returns to performing safety-sensitive duties. Drivers whose conduct involved alcohol cannot return to duty in a safety-sensitive function until the return-to-duty test produces a verified result that meets the requirements set forth in the Regulations. Drivers whose conduct involved drugs cannot return to duty in a safety-sensitive function until the return-to-duty test produces a verified negative result.

**Follow-Up Tests:** A driver who violates this policy and is subsequently identified by a substance abuse professional as needing assistance in resolving an alcohol or drug problem shall be subject to unannounced follow-up testing as directed by the substance abuse professional in accordance with the Regulations. Follow-up alcohol testing shall be conducted just before, during or just after the time when the driver is performing safety-sensitive functions.

**Refusal to Submit to Tests:** No driver shall refuse to submit to any of the tests. A driver will be considered to refuse to submit when he or she fails to provide adequate breath or urine for testing when notified of the need to do so, or when he or she engages in conduct that clearly obstructs the testing process. Such refusal will be documented and will be deemed as a violation of this policy.

**Testing Procedures:** The City of Auburn shall follow the federal guidelines and standards of the Department of Health and Human Services and the Department of Transportation regarding testing and laboratory procedures. This shall include a selection of sites with appropriately trained personnel for alcohol and drug testing, selection of a laboratory certified by the Department of Health and Human Services to conduct drug specimen analysis, and selection of a Medical Review Officer to verify laboratory drug test results. The drug and alcohol testing program of the City of Auburn shall provide individual privacy in the collection of specimen samples to the

maximum extent possible. The specimen collection procedures and chain of custody shall ensure that specimen security, proper identification and integrity are not compromised.

**Consequences of Violation:** Drivers whose conduct involved alcohol and/or drug use will be immediately removed from a safety-sensitive function and cannot return to duty in a safety-sensitive function until completing the return-to-duty test produces and obtaining the required result. A driver who is tested and found to have an alcohol concentration of 0.02 or greater, but less than 0.04, shall not perform or continue to perform safety-sensitive functions until the start of the driver's next regularly scheduled duty period but not less than 24 hours after the test was administered. Further employment actions, up to and including termination, may be instigated in accordance with the Drug Free Workplace Act of 1988, other state and federal laws and the City of Auburn's policy. Subject to the City of Auburn's Family Medical Leave Policy and other applicable law, in the event a driver tests positive for drugs or has a confirmed alcohol concentration of 0.04 or greater, the City of Auburn does not guarantee that a position will be held open for the driver in the event that they become re-qualified.

**Rehabilitation:** A driver who violates this policy shall be evaluated by a Substance Abuse Professional (SAP) who shall determine what assistance, if any, a driver needs in resolving alcohol or drug problems. The City of Auburn shall provide for the identification of SAPs by providing the driver with information including the names, addresses and telephone numbers of SAPs and counseling and treatment programs available. Successful completion of a SAP recommended treatment program will be considered a condition of continuing employment.

- 1) **Financial Responsibility:** The treatment program shall be the financial responsibility of the driver. The group health insurance currently offered by the City of Auburn may help pay for rehabilitation but may not cover all aspects of treatment. Drivers should understand the costs they may incur prior to going into a treatment program and are encouraged to call the toll free Pre-admission Certification number for Blue-Cross and Blue-Shield of Nebraska: 1-800-247-1103. A driver having questions about coverage may contact the Business Office.
- 2) **Approval:** The program must be approved by the SAP.
- 3) **Leave of Absence:** A driver requesting a leave of absence for inpatient treatment must notify his or her supervisor. The supervisor will promptly inform the Mayor. The "City of Auburn Request For Leave of Absence" form should be completed and include information as to the expected duration of the leave. From this information and other available facts, the Supervisor and Mayor will determine if the driver's position is to be held open on a case by case basis. The Supervisor and Mayor, with City Council consent, will then approve or deny the leave. While on chemical dependency leave, drivers must keep their supervisors

informed of their plans to return to work. As a general rule, the driver must contact the supervisor at least once every week. Reasonable notice (at least three business days or more if possible) is required prior to returning to work on any day other than originally scheduled. During the leave of absence, unused sick leave must be applied until exhausted; then, unused vacation must be applied until exhausted. The remainder of the leave will be without pay. The driver's group health, life and disability insurance (if participating) will remain in effect during the leave period on the same basis as if the employee were not on leave. No seniority, sick, vacation or other benefits will be earned during the leave; however, if the employee is concurrently using vacation or sick leave, then City's policy for employees using vacation will apply.

- 4) Continuation of Employment during Treatment: The Department Head and the Mayor must approve the outpatient treatment program including the expected duration, time away from work, etc. If the program is approved, the driver, with Department Head authorization, may be allowed to temporarily transfer to a position where a commercial driver's license is not required. The pay rate and on-call status will be determined by the Department head and the Mayor.
- 5) Return to Work: The driver's eligibility to return to normal work duties, and the timing and conditions of such return, shall be determined in each individual case by the Department head and Mayor based on all relevant factors including, without limitation, the following:
  - a. The expressed desires of the driver.
  - b. The nature of the driver's discharge from treatment and after care plan, including the driver's current and projected ability to function independently and to handle the responsibilities of the job.
  - c. The nature and responsibilities of the driver's prior job, and all appropriate jobs for which there are openings, including the extent of responsibilities, decision-making and stress levels and impact on safety.
  - d. The recommendations of the driver's treatment providers, supervisors(s) and the SAP.

Failure to successfully complete the treatment program will result in termination of employment. The driver must provide to the City of Auburn a written statement from the treatment center certifying that the driver has successfully completed the program and also provide an outline of after-care recommendations. The conditions of employment, as designated by the City, will be placed in writing and signed by the driver.

- 6) Family Medical Leave Act: Leave requested under this policy may qualify as leave under City's Family Medical Leave Policy. If

that is the case, the Family Medical Leave Policy shall govern the terms of the leave in all respects; otherwise, this policy shall govern.

**Drivers' Records:** Drivers' alcohol and drug test results and records shall be maintained in strict confidentiality and released only in accordance with the Regulations. Upon written request, a driver shall receive copies of any records pertaining to his or her use of alcohol or drugs, including any records pertaining to his or her tests. Records shall be made available to a subsequent employer or other identified persons or entities only as expressly requested in writing by the driver. Test records shall be maintained with the separate medical files of each driver or as otherwise authorized by the Regulations.

**Notification:** Before drug and alcohol tests are performed, the City of Auburn shall inform drivers that the tests are given pursuant to the Regulations.

The City of Auburn shall notify a driver of the results of a pre-employment drug test if the driver requests such results within 60 calendar days of being notified of the disposition of his or her employment application.

The City of Auburn shall notify a driver of the results of random, reasonable suspicion and post-accident drug tests if the test results are verified positive. The City of Auburn shall also tell the driver which controlled substance(s) were verified as positive.

In the event a driver tests positive for a controlled substance, the driver shall have the right to have the split specimen (collected at the same time as the tested specimen) retested provided that the driver provides written notice to the Medical Review Officer (MRO) within 72 hours of being notified of the positive result.

In accordance with the Regulations, drivers will be provided educational materials concerning the requirements of the Regulations. To the extent the educational materials are inconsistent with this policy, this policy will govern. To the extent that this policy is inconsistent with the Regulations, the Regulations will govern.