



EMPLOYEE HANDBOOK

*A guide to the policies, procedures, and rules of employment
for the City of North Adams, Massachusetts*

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CITY OF NORTH ADAMS, MASSACHUSETTS

Office of the Mayor
Thomas W. Bernard

Dear employees of the City of North Adams,

I am pleased to provide you with the City's employee handbook. This document provides a reference and a summary of the City's current personnel policies and procedures to assist you in understanding your rights and obligations as an employee.

Our first obligation as employees is to serve North Adams residents and visitors professionally, ethically, and respectfully. Fundamental to meeting this shared responsibility is a clear understanding of the policies, procedures, and rules that govern our work as they exist at the time of publication and distribution of this handbook.

Please note that the City reserves the right to amend, modify or delete any policy or provision that is included in the handbook; these changes may be implemented even if they have not been communicated, reprinted, or substituted in the handbook. In addition, neither this handbook, nor any other City communication or practice, creates an employment contract, and that nothing in this handbook or any other policy or communication changes the fact that employment is at-will, for an indefinite period, and can be terminated at any time by you or the City, unless otherwise stated in a collective bargaining agreement which covers the subject position.

Finally, the City retains all managerial and administrative rights and prerogatives entrusted to it and conferred on employers inherently and by law. The work rules contained herein are not intended to be a comprehensive list of prohibited conduct and management retains the right to take disciplinary action, including suspension or termination. Nothing in this document shall be construed to authorize or permit any department head, officer, official, or employee of the City to incur an obligation or to make any expenditure in excess of any appropriation that has been allocated.

Thank you for your service to our community. Please let me know if you have any questions.

Sincerely,

Thomas W. Bernard
Mayor

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PART 1: EMPLOYMENT POLICIES

1.1. Non-union personnel

The following language primarily applies to non-union personnel. In the case of a conflict between the provisions of these policies and the provisions of any collective bargaining agreement, the provisions of the collective bargaining agreement shall prevail.

1.2. Equal opportunity employment

The City of North Adams is committed to a policy of affirmative action in providing equal employment opportunities to all city employees and applicants for employment. This policy has been established to ensure the city's personnel practices prohibit discrimination of all types as well as to comply with the requirements of Executive Order 11246 as amended and State Executive Order No. 74 as amended and all other federal and state laws governing equal opportunity in employment. In meeting this commitment, the mayor, on behalf of the city, will ensure that all city offices and departments conform to the following principles:

- recruit, hire, train, and promote for all positions without regard to the legally defined factors of race, color, sex, age, religion, national origin, gender identification, genetic testing, or disabilities, and base these actions on the ability to perform the duties and responsibilities of the position(s); and
- administer all other personnel practices such as compensation, benefits, transfers, layoffs, rehiring, and discipline without regard to the legally defined factors of race, color, sex, age, religion, national origin, gender identification, genetic testing, or disabilities; and
- ensure that all promotions are made in agreement with the objective of equal employment.

Non-discrimination

The city recognizes the right of individuals to work and advance on the basis of merit, ability, and potential without regard to race, sex, color, disability, religion, national origin, gender identification, genetic testing, or age. Non-discrimination and equal opportunity is the policy of the city in all of its employment programs and activities.

Toward this end, the city commits itself to take affirmative measures to ensure equal opportunity in the areas of recruitment, hiring, promotion, demotion or transfer, layoff or termination, rates of compensation, in-service or apprenticeship training programs, and all terms and conditions of employment. The city is committed to fostering and encouraging a workplace comprised of individuals of diverse backgrounds, races, genders, abilities, religious beliefs, gender identification, genetic testing, disabilities, and ages.

All city employees are encouraged to take diligent, affirmative steps to ensure equal opportunity and respect for diversity, not only in the daily operation of city departments and agencies, but also in their relations with the public, including those persons or organizations doing business with the city. The policy of the city is to:

- Recruit, hire, and promote in all job classifications without regard to race, sex, color, disability, religion, national origin, gender identification, genetic testing, or age;
- Make decisions about employment so as to encourage the development of a diverse workforce;
- Ensure that employment and promotion decisions are made in accordance with the principles of equal opportunity, by imposing only valid, job-related requirements for employment and promotional opportunities;
- Ensure that all personnel actions such as compensation, benefits, transfers, layoff, recall, training, tuition assistance, and social and recreational programs will be administered without regard to race, sex, color, disability, religion, national origin, gender identification, genetic testing, or age;
- Prohibit any kind of harassment based on race, sex, color, disability, religion, national origin, gender identification, genetic testing, or age.

No retaliatory action against those persons who file complaints of discrimination or against individuals who cooperate in such in investigations will be tolerated. Violation of this policy will lead to appropriate disciplinary action up to and including termination from city service.

Anyone who feels that they have been discriminated against by the city on the basis of race, sex, color, disability, religion, national origin, gender identification, genetic testing, or age in employment practices may file a grievance in accordance with the procedures described in this document.

Discrimination grievance procedure

The purpose of this procedure is to encourage local resolution of grievances concerning employment. It is important to note that grievants are not required to exhaust the city's procedures prior to filing a state or federal complaint or taking court action.

Anyone who feels that they have been discriminated against by the city on the basis of race, sex, color, disability, religion, national origin, gender identification, genetic testing, or age in employment practices may file a grievance.

Grievances should be presented in writing and should include information about the alleged discrimination such as the name, address, and phone number of the grievant, and the location, date, and description of the problem. Reasonable accommodations, such as personal interviews or an audio recording of the complaint will be made available for persons with disabilities who are unable to submit a written complaint.

The grievant should first attempt to resolve the grievance with their department manager. The department manager will notify the administrative officer if such a grievance is submitted. If the grievance is not resolved to the satisfaction of the grievant, or if their department manager lacks authority or jurisdiction to correct the problem, the grievance should be submitted by the grievant or their designee to the administrative officer as soon as possible.

Within fifteen (15) calendar days after receipt of the grievance, the administrative officer will meet with the grievant to discuss the grievance and possible resolutions. Within fifteen (15) calendar days after the meeting, the administrative officer will respond to the grievant in writing, or where appropriate, in a format accessible to the grievant such as audio recording. The response will explain the position of the city, and may offer options for substantive resolution of the grievance.

All grievances received by the administrative officer and responses from same, will be kept by the city for at least three (3) years. Such documents will remain strictly confidential.

This grievance procedure is meant to be informal, and cannot be legally binding on either party. Any grievance or complaint involving existing or threatened civil or criminal litigation may not be addressed using this informal procedure.

No retaliatory action will be taken against those persons who file complaints of discrimination on the basis of race, sex, color, disability, religion, national origin, gender identification, genetic testing, or age, or against individuals who cooperate in such investigations.

1.3. Americans with Disabilities Act (ADA)

It is the policy of the city to comply with requirements of the regulations contained in the federal Americans with Disabilities Act of 1990. This policy applies to all employees of the city, excluding those employees under the supervision and authority of the school committee.

The city will not discriminate against people with disabilities in any employment practices or in terms, conditions or privileges of employment, including, but not limited to: application, testing, hiring, assignment, evaluation, disciplinary action, training, promotion, medical examination, layoff/recall, termination, compensation, leaves, or benefits.

The city has and will continue to establish occupational qualification for each position, including the education, skills, and work experience required, as well as the physical, mental, and environmental standards necessary for job performance, health, and safety. Such standards are job-related and consistent with business necessity.

The city will provide reasonable accommodation to the known physical or mental limitations of a qualified applicant or employee unless such accommodation will impose undue hardship on the city. The city will provide reasonable accommodation to:

- ensure equal employment opportunity in the application process;
- enable a qualified individual with a disability to perform the essential functions of the job; and
- enable an employee with a disability to enjoy equal benefits and privileges of employment;

The city need not provide reasonable accommodation for an individual who is otherwise not qualified for a position.

The duty to provide reasonable accommodation is on-going, and may arise any time an employee's job changes. It is the obligation of the individual with the disability to request an accommodation. If the cost of providing the accommodation is determined to meet the criteria of undue hardship on the city, the affected individual will be offered the opportunity to provide the accommodation or partial accommodation.

Examples of reasonable accommodations include, but are not limited to, the following:

- making facilities readily accessible and usable;
- restructuring a job by reallocating or distributing marginal job functions;
- altering when or how an essential job function is performed;
- creating part-time or flexible schedules;
- obtaining or modifying equipment or devices;
- providing qualified readers or interpreters;
- permitting the use of accrued or unpaid leave for treatment; and,
- providing reserved parking.

When attempting to identify what is a reasonable accommodation, appointing authorities and department managers should do the following:

- examine the particular job involved, determining its purpose and its essential functions.
- consult with the individual with the disability to find out their specific physical or mental abilities and limitations.
- identify potential accommodations in consultation with the individual, and assess how effective each would be.

If an individual requests an accommodation which the appointing authority or department head considers to be unnecessary, the department head may ask for written documentation from a physician or other professional with knowledge of the individual's functional limitations.

The determination that any reasonable accommodation represents an undue hardship will be made by the mayor or their designee.

No pre-employment inquiries may be made about an applicant's disability. This prohibition does not prevent an employer from obtaining necessary information regarding an applicant's qualifications, including medical information necessary to assess such qualifications and to ensure health and safety on the job. Before making a job offer, the city may ask questions about an applicant's ability to perform specific job functions, and may make a job offer that is conditioned on satisfactory results of a post-offer medical examination or inquiry. The city may not make inquiries about specific disabilities.

Questions which may not be asked during a pre-employment interview include, but are not limited to:

- Have you ever had, or been treated for any of the following conditions?
- What conditions or diseases have you been treated for in the past three years?
- Have you ever been hospitalized? If so, for what condition?
- Have you ever been treated by a psychiatrist or psychologist? If so, for what condition?
- Have you ever been treated for any mental condition?
- How many days were you absent from work because of illness last year?

- Do you have any disabilities or impairments which may affect your performance in the position? Are you taking any prescription drugs?
- Have you ever been treated for drug addiction or alcoholism?
- Have you ever filed a workers' compensation claim?

In addition, these questions may not be asked of a previous employer or other reference provider for an applicant during reference checks. In addition, the hiring manager may not ask the reference provider about an applicant's: disability, illness, or workers' compensation history.

Even if the applicant is qualified to perform the job, the city may deny employment if such employment would pose a direct threat to the health and safety of the individual or others, if such threat cannot be eliminated through reasonable accommodation. Such determination must be made by the mayor or their designee after careful review of the circumstances.

An employee who is an alcoholic is considered to be a person with a disability under the terms of the ADA. However, the city may discipline, discharge or deny employment to an alcoholic whose use of alcohol adversely affects job performance or conduct to the extent that they are "not qualified" for the position.

Persons addicted to drugs, but who are no longer using drugs illegally and who are receiving treatment for drug addiction, or who have been rehabilitated successfully, are protected from discrimination by the Americans with Disabilities Act. However, the city will discharge or deny employment to current illegal users of drugs, in accordance with policies established herein. The city may ask questions regarding the use of alcohol or illegal use of drugs. However, the employer may not ask whether the applicant is a drug addict or alcoholic, or whether they have ever been in a drug or alcohol rehabilitation program.

Violation of this policy will lead to appropriate disciplinary action up to and including termination from city service.

1.4. Employment of minors

The city will comply with all child labor laws of the United States and the Commonwealth of Massachusetts. Department managers should pay strict attention to the procedures and requirements listed below in order to insure compliance with the law and the safety of children who may work for the city.

Minors sixteen (16) years of age and older may not work more than nine (9) hours per day, nor more than forty-eight (48) hours per week. Such minors may not work between 10:00 p.m. and 6:00 a.m. Such minors must submit an educational certificate that they have obtained from their school or from the superintendent of schools in the city where they live. Minors sixteen (16) years of age and older may perform most types of work, except work involving hazardous occupations as established by the state and federal secretaries of labor (see Appendix A.5).

Minors fourteen (14) and fifteen (15) years old must have on file an employment permit from their school or from the superintendent of schools in the city where they live. Such minors may not be employed during school hours (unless as part of a qualifying "work experience program"). Such minors may not be employed between 7:00 p.m. and 7:00 a.m. (except that from July 1 through Labor Day they may work until 9:00 p.m.).

Such minors may not be employed more than:

- three (3) hours per day on school days;
- eighteen (18) hours per week in school weeks;
- eight (8) hours per day during a period of not more than nine (9) consecutive hours on non-school days;
- forty (40) hours per week; or
- six (6) days in a week.

The city must keep posted in a conspicuous place (e.g., in the room where such minors are employed or report to work) a printed notice or schedule stating the number of hours such minors are required or permitted to work on each day of the week, the total number of scheduled hours for the week, the hours for commencing and stopping work, and the hours when the time allowed for meals begins and ends for every day of the week.

Note: After 8:00 p.m., all minors must have the direct and immediate supervision of an adult supervisor who is located in the workplace and is reasonably accessible to the minor, unless the minor works at a kiosk, cart, or stand in the common area of an enclosed shopping mall that has security from 8:00 p.m. until the mall is closed to the public.

1.5. Employment eligibility

In accordance with the Immigration Reform and Control Act of 1986 will verify the employment eligibility of prospective employees.

It is the policy of the city that new employees must provide proof of authorization to work in the United States prior to beginning employment with the city as mandated by federal law. After making an offer of employment, the department manager/designee should verify the candidate's eligibility to work in the United States, using the employment eligibility form (I-9 Form).

The department manager/designee should outline the purpose of the form and give the candidate the employment eligibility information sheet. The department manager/designee should complete the I-9 form and verify the documentation submitted as instructed on the form.

Prospective employees must sign the I-9 form and provide the appropriate documentation on the first day of or prior to beginning city service. The department manager should stress during the interview that all offers of employment are contingent on the candidate's providing the city with the appropriate documentation prior to being placed on the payroll. This statement should be included in the offer letter, where applicable. Documentation provided with the I-9 should be photocopied and attached to the I-9. Such documentation will not become a part of the employee's personnel file but will be maintained by the personnel department in chronological order.

1.6. Hiring procedure

The City of North Adams is an equal opportunity employer and all employees are recruited, hired, retained, compensated, trained, and promoted without regard to race, color, national origin, creed, religion, sex, ethnicity, marital status, genetic information, citizenship status, sexual orientation, mental or physical disability, age, ancestry, or veteran or military status (see Appendix A.1).

1.7. Employee orientation

All new employees will report on their starting date to the department head or supervisor. Each new employee will receive an employee handbook from the mayor's office which outlines the rights and responsibilities of employment. Department heads are responsible for giving each new employee an overview of the governmental structure of the City of North Adams. The description will include an explanation of how the employee's job relates to others within an office and in the city as a whole. All appropriate forms (e.g. income tax deductions, life insurance, group health insurance, and retirement forms) should be completed on the first day or prior to the employee's starting date, and returned to the treasurer's office.

1.8. Probationary period

All employees hired or re-hired will go through a one year probationary period, during which the employee will receive three interview/evaluation sessions with the employee's immediate supervisor. These are held at or about the 30th day following the first day of work; just prior to the 90th day of employment; and at the conclusion of the first year. After this process, the evaluation will be entered into the employee's personnel file. The purpose of an evaluation is to review the employee's progress and/or any problems which may have arisen and to ascertain the employee's reaction to the job and to the city. It is important to understand that employees may be dismissed at any time during this probation period, or at any future time, at the will of the city, and the employee is free to resign at any time.

1.9. Temporary and seasonal employment

The mayor or their designee may appoint temporary and seasonal employees to titles contained in the classification plan in accordance with procedures outlined herein. Temporary and seasonal employees are not entitled to benefits such as health insurance, paid holidays, accrued leave, or step raises, regardless of the number of hours worked per week.

Temporary and seasonal appointments must not exceed four (4) consecutive months. A specified term of service must be stipulated prior to appointment. Temporary and seasonal employees must be appointed to titles that are contained in the current classification plan. Temporary and seasonal employees will be paid at the entry level rate of the position to which they are appointed. Upon receipt of a written request from an appointing authority or department manager, the mayor may adjust the rate of compensation for any temporary and seasonal position but shall not increase the rate by more than two (2) compensation grades.

Department heads/appointing authorities making temporary/seasonal appointments must follow the general recruitment and hiring procedures outlined herein.

1.10. Promotions and transfers

Unless otherwise provided by any collective bargaining language in effect, each employee in a position for which step rates are provided will be considered for an increase in compensation to a higher rate for that position after completion of the required period of continuous service and an annual performance evaluation that is satisfactory or higher by the department head.

When an employee is promoted or transferred to a higher-rated position, they shall enter it at the minimum rate for that position which is at least equal to their prior rate of compensation. They also may receive a one-time increase at the time of promotion, if the department head recommends, in writing, that qualifications and performance warrant it and if the mayor approves it.

If an employee is transferred to a lower rated position, they shall enter it at their rate in the position for which they are transferred. The pay rate of such employee shall be adjusted to the appropriate rate for their new position within one (1) year by such adjustments as the mayor shall determine.

1.11. Training opportunities and procedures

The City of North Adams endeavors to promote both individual and institutional training programs and opportunities. All employees are encouraged to plan their careers and gain new skills for personal advancement and greater contribution to the city.

One major factor in job satisfaction, performance, and safety is proper training. Individual department heads should ensure that their employees are provided with information opportunities for training in job-related fields.

All written requests for courses or workshops should be made in advance to the department head. The department head is responsible for analyzing the suitability of the request.

Where a full-time employee is required to attend a course or to receive instructions in order to maintain a license or registration which is an integral part of their job description and which is required for the continuation of employment in that position, the city shall fully reimburse the employee for such courses or instructions.

1.12. Work hours

North Adams City Hall offices typically are open from 8:00 a.m. until 4:30 p.m. daily except for Saturdays, Sundays, and legal holidays. The city's offices should be open to serve its constituents; therefore, the normal working hours of the city's employees should coincide with the hours that the offices are open. However, each employee will receive a listing of their work schedule when they are hired and they will be notified in advance when and if that schedule changes. All City Hall employees covered by this policy will have a daily lunch break of one (1) hour unless notified in advance of a scheduling change.

The hours of work for the employees in the school department will be established by the superintendent and the school committee.

In addition, employees of the North Adams Public Library will have their work schedules and hours set by the library director and the library trustees. However, the library will be closed on Sundays and legal holidays.

The normal workday for employees, working in areas other than those mentioned above, who are covered by this policy, will not exceed forty (40) hours.

This limitation on the hours normally worked should be invoked with all due consideration to both public service and to the conduct of the affairs of the city.

1.13. Flex time

Personnel, [such arrangements are permitted only with the knowledge and written approval of either the administrative officer, director of public services, director of inspection services, police director or fire director (or the mayor in the case of any of the before mentioned positions)], may be able to arrange their usual business schedules to accommodate unusual demand during the work week. Thus, for example, an employee obliged to attend extra evening meetings may wish to come into work late the next day after

such a meeting. This is flex-time. Managerial personnel are expected to keep the normal business hours worked by others in their department, but flexible scheduling for unusual time demand periods is appropriate. Flex time must be used in the current or next immediate work week.

1.14. Meals and rest breaks

A fifteen minute rest break is provided to each employee, in addition to a one (1) hour unpaid lunch break. Break time should be approved by the employment supervisor in coordination with the needs of this department and co-workers. The one (1) hour unpaid lunch break is associated with the typical hours of operation and may be changed at the discretion of the mayor. Hourly employees must have at a minimum a thirty (30) minute lunch break (paid or unpaid) after six consecutive hours of work

1.15. Performance appraisal

The city will utilize a performance appraisal system in order to accomplish several goals: to continuously improve the effectiveness and efficiency of city services; to provide an opportunity for two-way communication and planning between employees and supervisors; to assist employees in increasing the effectiveness of their job performance; to provide a mechanism for the establishment of individual and department goals; to serve as the basis of acknowledging employee's accomplishments and recognizing employee's potential need for guidance, training, and/or support; and to provide documentation of employee performance to serve as the basis for salary adjustments and personnel actions.

The performance appraisal system will apply to all non-represented administrative, clerical and professional staff and excludes public safety employees, public services employees, and employees under the control and supervision of the school committee.

It is the policy of the city that all full-time and permanent part-time employees will be evaluated on an annual basis. Additionally, employees who are nearing the end of the probationary period will be evaluated prior to the determination as to whether the employee should be retained on a permanent basis.

1.16. Insurance plans

All permanent employees who are regularly scheduled for a minimum of twenty (20) hours per week will be eligible to participate in the city's plans for contributory insurances, including life and health insurance. In addition, the city offers a dental insurance plan that is paid for entirely by the employee. Please refer to payroll and/or the health benefits summary for more information on insurance plans offered by the city.

1.17. Flexible Spending Accounts (FSAs)

The city offers all full time employees the opportunity to participate in a Flexible Spending Account plan (FSA).

An FSA allows employees to make pre-tax deductions for unreimbursed medical expenses and dependent care expenses for one year. Those expenses include co-pays, deductibles from the health insurance plan, eyewear, lasik surgery, dental care, orthodontia, and over the counter drugs. Employees do not need to have medical insurance through the city to participate.

The IRS observes a "use it or lose it" policy for FSAs. Employees must use the dollars they have put aside for services during the designated period or forfeit what remains in their account. Therefore employees should calculate their anticipated costs conservatively.

The maximum any employee can set aside for unreimbursed medical expenses is \$3,800. Employees may set aside up to \$5,000 for dependent care expenses.

1.18. COBRA

In accordance with Consolidated Omnibus Budget Reconciliation Act (COBRA) regulations, the city provides employees and their dependents that are covered under the city's medical insurance plan with the opportunity to continue their participation in the group plan following certain qualifying events, such as the employee and/or a dependent losing eligibility due to age, divorce, or resignation, and other such occurrences.

Employees who elect to continue their participation in the city's group health insurance do so solely at their own expense. In addition to the insurance's premiums participating employees also will be charged an additional 1% administrative fee. The city does not contribute to the health care premiums of COBRA-qualified subscribers. However, all payments to the insurer must be made through the city in accordance with the insurer's COBRA policies. The city does not take responsibility for reminding former employees about premium payments. Failure to pay premiums to the city within thirty (30) days of their due date will result in termination of the health insurance policy.

1.19. North Adams Contributory Retirement System

All permanent city employees, who regularly are scheduled for a minimum of twenty-five (25) hours per week, are required to participate in the North Adams contributory retirement system. Those employees whose regular schedule calls for fewer than twenty (20) hours per week must participate in an Omnibus Budget Reconciliation Act of 1990 Plan (OBRA Plan). The city also offers another alternative retirement vehicle which is called a 457(b) plan for city employees. For employees of the North Adams Public Schools; it also offers both a 457(b) and 403(b) retirement program. Please consult the payroll office for the specific details of these plans.

1.20. Whistleblower protection

This policy is adopted pursuant to and in accordance with the Massachusetts Whistleblower Protection Act, 1992, Massachusetts General Laws Chapter 149 (the "Act") and is designed specifically to protect such conduct and provide such remedies as are set forth in the Act.

It is the policy of the city:

- To encourage the reporting by its employees of improper governmental action taken by city officers or employees; and
- To protect city employees who have reported improper government actions in accordance with this policy.

The city encourages the reporting of improper governmental action taken by any city officers or employees, and the reporting of retaliatory actions for such reporting. The city encourages initial reporting to the city to allow for expeditious resolution of all such matters, and to minimize any adverse impacts of the improper action. This policy states the city's procedures for reporting improper governmental action, and for protecting employees against retaliatory actions.

City employees who obtain knowledge of facts demonstrating improper governmental actions should raise the issue first with their supervisor, the administrative officer, the mayor or the appropriate governmental agency.

An employee is not required to comply with the above procedure if they:

- Are reasonably certain that the activity, policy or practice is known to one or more supervisors of the employer and the situation is an emergency in nature;
- Reasonably fears physical harm as a result of the disclosure provided; or
- Makes the disclosure to a public body for the purpose of providing evidence of what the employee reasonably believes to be a crime.

City employees who fail to make a good-faith attempt to follow this policy in reporting improper governmental action shall not receive the protections provided under this policy or the act. Employees who make false reports may be subject to the disciplinary procedures of the city.

The supervisor, administrative officer, or mayor (as the case may be) shall take prompt action to assist the city in properly investigating the report of improper governmental action. City officers, administrators, supervisors, and employees involved in the investigation shall keep the identity of reporting employees confidential to the extent possible under the law, unless the employee authorizes the disclosure of their identity in writing. After an investigation has been completed, the employee reporting the improper governmental action shall be advised of the summary of the results of the investigation, except personnel actions taken as a result of the investigation may be kept confidential.

City officials, administrators, supervisors and employees are prohibited from taking retaliatory action against the city employee; because they have in good faith reported an improper governmental action in accordance with this policy.

Employees who believe that they have been retaliated against for reporting an improper governmental action should advise their supervisor or the administrative officer. City officials, administrators and supervisors shall take appropriate action to investigate and address complaints of retaliation. If the supervisor or the administrative officer, as the case may be, does not satisfactorily resolve an employee's complaint that they have been retaliated against in violation of this policy, the employee, in accordance with the act, may, within two (2) years, institute a civil action in the superior court. Any party to said action shall be entitled to claim a jury trial. All remedies available in common law tort actions shall be made available to prevailing plaintiffs. These remedies are in addition to any legal or equitable relief provided herein.

The administrative officer is responsible for implementing the city's policies and procedures: (1) for reporting improper governmental actions, and (2) for protecting employees against retaliatory actions. This includes ensuring that this policy is permanently posted where all employees will have reasonable access to it, and that this policy is made available to any employee upon request. The city will, to the extent it considers practical, provide training and education on the whistleblower policy. Managers and supervisors are responsible for ensuring that this policy is fully implemented within their areas of responsibility. Violations of this policy may result in appropriate disciplinary action up to and including dismissal.

1.21. Interruption of service

Any regular employee who leaves city service while in good standing may be rehired, and upon successful completion of one year's probationary service, will have restored the vacation, accrual rate and longevity pay to which they would otherwise have been entitled without an interruption of service. The provisions of this section shall only apply if the employee returns to city employment within two (2) years of departing. Any employee returning with more than two (2) years of separation will only have benefits restored if approved by the mayor.

1.22. Resignation and separation from employment

It is understood that there will be times when it is appropriate for an employee to either voluntarily or involuntarily leave the city's employ. It is important in these situations for both parties to respect each other's needs. Some specific requests are below:

Employees who wish to resign from the city are expected to submit a letter of resignation to their supervisor under the following conditions:

- This letter should provide at least ten (10) work days' notice. Management or senior level positions should provide at least twenty (20) work days' notice. Following this policy allows the city to have the final paycheck available for the separating employee and also allows the city to recruit an employee to replace the employee who is departing.
- Vacation time may not be taken during this notice period without approval by the director of public safety, the director of public works, the administrative officer, or the mayor.

Should the city wish to terminate the services of an employee, appropriate notice will be provided if possible. The length of this notice will be dependent on the circumstances of the termination. Termination may occur for reasons such as: financial exigency; discontinuation of a program; or administrative reorganization; among others. In certain situations, such as unsatisfactory performance or misconduct, the city has the right to terminate with little or no notice.

In addition to the above, it is important to remember that employment with the City of North Adams is considered at-will. The city retains its right to terminate any employee at any time for any reason as long as such termination is not otherwise prohibited by law.

PART 2: STANDARDS OF CONDUCT

2.1. Interacting with the public

The city's reputation rests upon the attitude of its employees. Residents and visitors expect city offices to be friendly, courteous places and expect that employees will maintain a helpful, pleasant manner with other employees and the public at all times.

2.2. Standards of professional conduct

The city seeks to hire employees who are the best qualified in their fields, committed to the success of the city and comfortable with the municipal working environment. Working with capable colleagues the city offers unique rewards and opportunities for employees while also creating distinct obligations and requirements which all members of the workforce must observe. Certain guidelines and expectations are found in law; others exist as general and accepted standards of employment; and others derive from common sense, the city's tradition, and simple ethical principles.

Employees are obliged to observe without qualification the highest standards of professional conduct. The city expects that all employees will strive at all times to demonstrate commitment to the highest professional and personal performance standards appropriate in their areas of responsibility.

Effective communications are critical to our success. Such skills as establishing eye contact, listening attentively, speaking with forethought and enthusiasm, and conducting business transactions with a smile and a firm handshake are all key elements in successful interactions with our many constituencies. You should always offer your name and do not hesitate to address others by their name.

Similarly, all telephone and written communications should reflect professionalism and pride in the city. When answering the telephone, you should be pleasant and efficient, remembering that the conversation may be the caller's first, and perhaps only, contact with the City of North Adams. Transferring of calls and returning calls, whether with community members or colleagues, should be done promptly. Written communications are even more significant than face-to-face meetings because they are permanent records. Correspondence and memos must be accurate and concise in content and typed in a proper format.

Employees have an obligation to be present at work as required and to be absent from the workplace only with proper authorization; to carry out their duties in an efficient and competent manner, and maintain specified standards of performance; to comply with reasonable employer instructions and policies and to work as directed; to respect the privacy of individuals and use confidential information only for the purposes for which it was intended; to neither use, nor allow the use of city property, resources, or funds for other than authorized purposes; to incur no liability on the part of the city without proper authorization; and, to maintain all qualifications necessary for the performance of their duties legally and efficiently.

The intent of this policy is to ensure that: 1) employees meet the city's legitimate expectations in the areas of performance and behavior; 2) employees whose performance or behaviors are deficient are provided with the necessary assistance and motivation to meet the city's expectations; and 3) disciplinary action initiated against an employee is fair and appropriate.

Failure to behave in a manner consistent with the standards of conduct and policies included herein may result in disciplinary action being initiated against the offending employee. The city shall utilize a fair and equitable process in reviewing an employee's alleged violation of these standards and policies and shall discipline the employee, if called for, in a manner appropriate given the alleged violation.

This policy applies to all paid, appointive employees in city service other than those positions under the supervision and control of the school committee. Employees subject to Massachusetts civil service laws and/or collective bargaining agreements are subject only to those provisions in this order which are not specifically regulated by civil service laws or collective bargaining agreements.

2.3. Confidential information

City employees often learn of personal information about residents of the city and other confidential information. Confidential information of any sort is not to be discussed with anyone, including co-workers, unless necessary in the line of duty. In addition, this type of conversation is not to be discussed in corridors, eating areas, or anyplace other than the work site.

2.4. Employee attire

Employees are encouraged to dress in a professional manner which is consistent with their work environment. City employees should take pride in their appearance by looking neat and clean at all times.

2.5. Tardiness and failure to report to work

The purpose of this policy is to ensure proper coverage in all offices and work locations in order to maintain the highest level of service to the taxpayers of the city. This policy defines the city's expectations of employees and describes management's course of action in monitoring and controlling tardiness and failure to report to work.

This policy applies to all paid appointed positions in city service excluding those employees under the supervision and control of the school committee. This policy does not apply to management employees who do not work regularly scheduled hours and who are required to work as many hours per week as may be required. Employees who are covered by civil service law or a collective bargaining agreement are subject only to those portions of this policy which are not specifically regulated by law or agreement. It is the policy of the city that all employees assume their assigned duties at the start of the regularly scheduled work day, and conclude those daily duties at the regularly scheduled conclusion of the day. Tardiness and failure to report to work – as well as departure before the scheduled end of the work day – are viewed as unacceptable job performance and may be grounds for progressive disciplinary action.

An employee who anticipates that they will arrive after the start of the work day or shift must notify the work location and speak directly to their supervisor or the supervisor in charge to inform them of the delay and expected time of arrival. The employee should call the work location prior to their expected time of arrival, if possible. Employees will be required to provide a reasonable explanation of their tardiness, and may be required to provide documentation, if appropriate.

If an employee exhibits a pattern of repeated tardiness or early departure, they may receive an oral reprimand. Subsequent tardiness may result in a written reprimand or further disciplinary action.

If an employee does not report for their scheduled work hours/shift, and fails to notify the work location of the absence by the end of the regularly scheduled shift, the employee shall be considered on unauthorized leave without pay for the day and may be subject to disciplinary action, unless the absence resulted from an emergency. The employee may be required to provide documentation of the emergency. Further incidents of this nature may result in subsequent disciplinary action up to and including termination of employment. Failure by an employee to report to work without permission and without notice for ten (10) or more consecutive days may result in the employee being considered to have voluntarily and permanently separated themselves from city service.

2.6. Attendance

Whenever an employee is unable to report to work because of an illness or emergency, the employee must call their supervisor as far in advance as possible. If the supervisor is unavailable, employees should notify the mayor's office. In addition, if a department head is absent or late for any reason they must notify the mayor's office as soon as possible. Such notification should include a reason for the absence or tardiness and an indication of when the employee can be expected to return to work. Any employee who feigns a sickness, injury, and/or illness or who makes a false statement relative to any of these conditions will be subject to immediate suspension and even in some extreme cases to termination.

Messages left with other staff members are not acceptable. Failure to provide proper notification of absence or lateness, unexcused absences, late arrivals or early departures from work may result in loss of sick pay and/or disciplinary action, up to and including discharge.

Any lost time that is compensated under the sick leave policy will not be deducted from the employee's vacation period for which the employee is entitled. The absent days will be included in the computation of the number of weeks of service used in determining the basis for the allowance of the sick employee's vacation period.

2.7. Visitors in the workplace

There may be occasions when a friend or family member stops by to visit or to give the employee information while they are working. These visits can distract an employee from their work as well as cause a disruption to fellow employees. Employees should use professional discretion to be sure non-work visits are brief and infrequent. This policy does not include business related visits or business associates who are here to conduct valid business with the city. If a situation arises where a visitor refuses to leave, is harassing an employee, or appears to be dangerous, anyone witnessing the event should immediately contact law enforcement officials if the situation becomes violent or life threatening.

2.8. Harassment policy

Purpose: To create for every City of North Adams employee an atmosphere that is free from all forms of harassment and discrimination

- Harassment generally: The City of North Adams is committed to providing a work environment that fosters mutual respect. The city specifically prohibits any form of harassment on any basis, including race, creed, color, national origin, ancestry, religion, sex, genetic information, citizenship status, marital status, sexual orientation, veterans' or military status, age, or physical or mental disability, by or toward employees, contractors, and vendors. For the purposes of this policy, harassment means offensive, unwelcome physical or verbal behavior.
- Violations of this policy: Violations of this policy will not be tolerated. Any employee, supervisor, or official who violates this policy will be subject to discipline that can range from a warning up to and including immediate discharge.
- Protection against retaliation: It is unlawful to retaliate in any way against an individual who makes a report of harassment, and the City of North Adams will not permit any employee or supervisor to do so. It is also unlawful to retaliate in any way against an individual who cooperates in an investigation of a complaint for harassment. Retaliation is a violation of this policy, subject to the same discipline as harassment itself, and should be reported immediately as set forth below.
- Complaints and investigation:
 - Any employee who believes that they are a victim of harassment or witnesses such harassment should immediately report the matter to the director of public safety, director of public services, director of inspection services, administrative officer or the mayor. The matter will be thoroughly investigated. Immediate notification will give the city the opportunity to investigate and deal promptly with a complaint.
 - Upon the completion of an investigation of a harassment complaint, the city shall communicate its findings and intended actions to the complainant and the alleged offender. If, as a result of the investigation, it is determined that harassment has occurred, the offender will be subject to the appropriate discipline.

2.9. Sexual harassment policy

Introduction

It is the goal of the City of North Adams to promote a workplace that is free of sexual harassment. Sexual harassment of employees occurring in the workplace or in other settings in which employees may find themselves in connection with their employment is unlawful and will not be tolerated by this municipality. Furthermore, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated. To achieve the city's goal of providing a workplace free from sexual harassment, the conduct that is described in this policy will not be tolerated. A procedure is provided below by which inappropriate conduct will be dealt with if encountered by employees.

Because the City of North Adams takes allegations of sexual harassment seriously, the city will respond promptly to complaints of sexual harassment and where it is determined that such inappropriate conduct has occurred, the city will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this policy sets forth the city's goals of promoting a workplace that is free of sexual harassment, the policy is not designed or intended to limit the city's authority to discipline or take remedial action for workplace conduct which the city deems unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.

Definition of sexual harassment

In Massachusetts, the legal definition for sexual harassment is: "sexual harassment" means sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

- a) Submission to or rejection of such advances, requests, or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or,
- b) Such advances, requests, or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating, or sexually offensive work environment.

Under these definitions, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and that has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to city employees may also constitute sexual harassment.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

- Unwelcome sexual advances — whether they involve physical touching or not;
- Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life, comments on an individual's body, comments about an individual's sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, cartoons;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Inquiries into one's sexual experiences; and,
- Discussion of one's sexual activities.

All employees should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated by this organization.

Complaints of sexual harassment

If any city employee believes that they have been subjected to sexual harassment, the employee has the right to file a complaint with the organization. This may be done in writing or orally (See Appendix A.3)

Complaints should be filed with the mayor or administrative officer. These persons are also available to discuss any concerns employees may have and to provide information to employees about the city's policy on sexual harassment and the city's complaint process.

Sexual harassment investigation

When one of the designated individuals receives a complaint, they will promptly investigate the allegation in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. The city's investigation will include a private interview with the person filing the complaint and with witnesses. The investigation will also include an interview with the person alleged to have committed sexual harassment. When the investigation is complete, the city will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

If it is determined that inappropriate conduct has occurred, the city will act promptly to eliminate the offending conduct, and where it is appropriate the city will also impose disciplinary action. If the sexual harassment requires the intervention of state agencies, the proper authorities will be contacted. In these circumstances, the city's attorney will be immediately contacted to give advice and guidance on how to process these actions with the appropriate authorities.

Disciplinary action

If it is determined that inappropriate conduct has been committed by an employee, the city will take such action as is appropriate under the circumstances. Such action may range from counseling to termination from employment, and may include such other forms of disciplinary action as the city deems appropriate under the circumstances.

State and federal remedies

In addition to the above, if an employee believes they have been subjected to sexual harassment, the employee may file a formal complaint with either or both of the government agencies set forth below. Using the city's complaint process does not prohibit an employee from filing a complaint with these agencies. Each of the agencies has a short time period for filing a claim (EEOC - 300 days; MCAD - 300 days).

The United States Equal Employment Opportunity Commission ("EEOC")

One Congress Street, 10th Floor
Boston, MA 02114
(617) 565-3200

The Massachusetts Commission Against Discrimination ("MCAD")

Boston Office
One Ashburton Place, Room 601
Boston, MA 02108
(617) 994-6000

Springfield Office
424 Dwight Street, Room 220
Springfield, MA 01103
(413) 739-2145

2.10. Employment outside the City of North Adams

Employees should avoid outside employment or interests that either directly or indirectly, or have the potential to: (a) interfere with city work and time, (b) present a perceived conflict of interest or a blurring of loyalties, or (c) require so much attention as to adversely affect job performance.

Employees may not own, operate, or participate in any outside business or organization that competes with the city's activities, involves use of the city's facilities or equipment without prior consent, implies the city's sponsorship, or subjects the city to criticism or adverse publicity.

Employees are encouraged to participate in civic affairs. Employees participating in such activities do so as individuals and not as representatives of the City. To avoid any interpretation or inference of organizational sponsorship or endorsement, the City's name, address, and telephone numbers should not be used in any materials or situations on behalf of such activities.

2.11. Political activity

No person employed in city service may use their official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office or directly or indirectly coerce, attempt to coerce, command, or advise a state or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.

A person employed in city service retains the right to vote as they choose and to express their opinions on political subjects and candidates and shall be free to participate actively in political management and campaigns. Such activity may include but shall not be limited to; membership and holding of office in a political party, organization, or club; campaigning for a candidate in a partisan election by making speeches, writing on behalf of the candidate or soliciting votes in support of or in opposition to a candidate and making contributions of time and money to political parties, committees, or other agencies engaged in political action: However, no employee may engage in such activities while on duty or within any period of time during which such employee is expected to perform services for which they receive compensation from the City of North Adams. Additionally, no such employee shall utilize municipal funds, supplies, vehicles, or facilities to secure support for or oppose any candidate, party, or issue in a political partisan election.

2.12. Use of city technology resources

Access to city technology resources (including telephones, e-mail, voicemail, scanners, office equipment, and the internet) have been provided to our employees for the benefit of the city and its residents. Every employee has a responsibility to maintain and enhance the city's public image, and to use city technology resources in a productive manner. To ensure that all employees are responsible and productive city technology resource users and that they are protecting the city's public image, the following guidelines have been established for using city technology resources.

Acceptable uses

Technology resources are provided by the city as a proprietary tool to facilitate business related communications among employees and community members, as well as to research business related information and materials; not for personal purposes of the employees. They are city assets and critical components of the city's communication systems. They are to be used as basic tools to facilitate the performance of the city's work. Employees using city technology resources are representing the city. All communications should be for professional reasons. Employees are responsible for utilizing city technology resources in an effective, ethical, and lawful manner.

Unacceptable Uses

The city's resources will not be used for any illegal or unlawful purposes. Examples of unacceptable use include, but are not limited to the transmission of violent, threatening, defrauding, pornographic, obscene, or otherwise illegal or unlawful materials. The use of city technology resources is only for appropriate personal business (not including social media networks and sites, unless the use serves a legitimate business or communication purpose) or to conduct city business. These services shall not be used to harass, intimidate or otherwise annoy another person. Internet access shall not be used for inappropriate, non-city related activity. Users shall not attempt to circumvent or subvert security measures on either the city's network resources or any other system connected to or accessible through the Internet. City technology resources should not be used for personal gain or advancement of individual views. Solicitation of non-city business, or any use of city technology resources for personal gain is strictly prohibited. Use of city technology resources must not disrupt the operation of the city's network or the networks of other users.

Communications

Each employee is responsible for the content of all text, audio, and/or images that they place or send via city technology resources. Fraudulent, harassing or obscene messages are prohibited. All messages should have the employee's name attached. No messages shall be transmitted under an assumed name. Users may not attempt to obscure the origin of any message. Information published by e-mail or on the internet or transmitted via telephones, voicemail, scanners, or office equipment should not violate or infringe upon the rights of others. Nor will abusive, profane, or offensive language be transmitted through the system. Employees are expected to respect the confidentiality of messages sent to others and may not access or review communications that are not distributed to them.

Software

To prevent computer viruses from being transmitted through the system there will be no unauthorized downloading of any software. All software, screensavers, and programs downloaded shall be done only upon prior approval by the MIS department in writing.

Copyright Issues

Copyrighted materials belonging to entities other than the city may not be transmitted. One copy of copyrighted material may be downloaded for an employee's personal use. Users are not permitted to copy, transfer, rename, add, or delete information or programs belonging to other users unless given express permission to do so by the owner. Failure to observe copyright or licensing agreements may result in disciplinary action by the city and/or legal action by the copyright owner.

Security

Unless otherwise prohibited by law, city technology resources, and all contents of those systems/servers are the property of the city. Therefore, the city retains the right and ability to enter into any of those messages recorded in these systems and housed on the servers. As a result, employees must not assume that information or data stored in or transmitted over those systems is private or confidential. All messages created, sent, or retrieved using city technology resources are the property of the city and should be considered public information. The use of individual passwords to access voice mail, email, or the internet does not give users ownership of the system or of the messages sent or received on the system. The city reserves the right to access and monitor all messages and files on the computer system as deemed necessary and appropriate. All messages are public communication and are not private. All

communications including text and/or images can be disclosed to law enforcement or other third parties without prior consent of the sender or receiver.

No confidential or strategic information should be sent, or received via city technology resources. Any confidential or strategic information should continue to be delivered by non-electronic means.

Harassment

Harassment of any kind is prohibited. No messages of an abusive, profane, derogatory, harassing, intimidating, or offensive nature or which violate or infringe on the rights of others shall be transmitted.

Violations

Violations of any of the guidelines listed above may result in corrective action up to and including immediate termination. Additionally, all employees will be expected to sign the Acceptable Use Policy. The AUP is included in the appendix of this document.

2.13. Safety

Risk management

The City of North Adams takes a protective stance toward potential risks and losses inherent in the operation of the city. The city faces potentially damaging risks every day to its physical property, loss of income, contingent expenses, human resources, and legal liability. The objective of the risk management program is to conserve resources from accidental loss; that is, to ensure that the human, financial, physical, and natural resources of the city are preserved against loss. A sound policy of risk assessment allows the city to anticipate losses and to minimize the adverse effects of those losses. It also allows the city to manage possibly dangerous exposure and to prevent unexpected, preventable losses. If you see a dangerous condition or safety hazard, immediately report it to your supervisor, department head, the administrative officer or the mayor.

With regard to personnel policies, risk management aims to prevent accidents and injuries to employees on the job. Accordingly, the city places emphasis on risk assessment/loss control through safety training, inspections of work sites, and establishing goals to provide safe working conditions for all employees. The city's Worker's Compensation Policy insures employees against loss of pay due to job-related injuries. All supervisors are responsible for investigating and determining the cause of all accidents, and for ensuring that appropriate corrective action is taken.

2.14. Security measures

The city reserves the right to check packages carried by employees if deemed necessary. Lockers, desks, cabinets, and drawers are subject to inspection by the city at any time without prior notice. If an employee observes someone who may not have authorization to be on the premises or who is engaged in an illegal or inappropriate activity, the employee should immediately contact their supervisor, the administrative officer or the police.

2.15. Violence-free workplace

The city maintains a zero tolerance policy toward workplace violence, or the threat of violence, by any of its employees, customers, the general public, and/or anyone who conducts business with the city. It is the intent of the city and each department to provide a workplace that is free from intimidation, threats, or violent acts.

Workplace violence includes, but is not limited to harassment, threats, physical attack, or property damage. A threat is the expression of intent to cause physical or mental harm regardless of whether the person communicating the threat has the present ability to carry out the threat and regardless of whether the threat is contingent, conditional, or future. Physical attack is intentional hostile physical contact with another person such as hitting, fighting, pushing, shoving, or throwing objects. Property damage is intentional damage to property which includes property owned by the city, employees, or others.

The city subscribes to the concept of a safe work environment and supports the prevention of workplace violence. Prevention efforts include, but are not limited to informing employees of this policy, instructing employees regarding the dangers of workplace violence, communicating the sanctions imposed for violating this policy, and providing a reporting hierarchy within which to report incidents of violence without fear of reprisal.

Each incident of violent behavior, whether the incident is committed by another employee or an external individual such as a customer, vendor, or citizen, must be reported to the department head, administrative officer, or the mayor. Management will assess and investigate the incident and determine the appropriate action to be taken. Management will inform the mayor of all reported incidents of workplace violence and will inform the employee of their right to have the police department notified.

In critical incidents in which serious threat or injury occurs, emergency responders such as police, fire and/or ambulance personnel must be promptly notified. As necessitated by the seriousness of the incident, the mayor may assemble a management response team that consists of staff from the effected department, administrative officer, city council, and may include the emergency response, police department and others as deemed necessary.

The management response team is responsible for establishing the protocol in the event of a threat or violent incident that may include but is not limited to:

- evaluating the potential violence problems;
- assessing an employee's fitness for duty (through mental health professionals);
- establishing a plan for the protection of co-workers and other potential targets;
- coordinating with affected parties such as victims, families, employees, media, or law enforcement personnel;
- referring victims to appropriate assistance and community service programs; and
- assuring that immediate (within 24 hours) and on-going counseling is available to traumatized individuals.

Any employee who acts in good faith by reporting real or implied violent behavior will not be subjected to any form of retaliation or harassment. Any action of this type resulting from a report of violence must be reported to the appropriate management staff for investigation and decision regarding proper action.

It is a violation of this policy to engage in any act of workplace violence. Any employee who has been determined to be in violation will be subject to disciplinary action up to and including termination and, depending upon the violent act, may be subject to criminal sanctions.

All employees should openly communicate with each other to be aware of any unusual activity that may identify the potential for or actual occurrence of a violent incident.

The department head, or their designee, will orient all new employees to departmental procedures regarding reporting incidents of violence, what to do if the employee is threatened and/or if an incident of violence actually takes place, and dealing with the after effects of an act of violence. Should an employee become the victim of an incident of workplace violence, the department head may offer additional referral services to assist in coping with any effects of the incident.

2.16. Smoke-free workplace

In order to protect the health of all of our employees and visitors, the city has adopted a smoke-free workplace policy. This policy covers all of the city's property, buildings, restrooms, stairways, parking lots, playgrounds, athletic fields, entryways, and vehicles. Please protect the interest and health of others by politely informing visitors of our policy, as appropriate.

In accordance with Board of Health regulations, it is the policy of the city that smoking in the workplace, except in specifically designated areas, is prohibited. Each appointing authority or designee having control over a city facility which constitutes a workplace may specifically designate an area or areas in which employees may smoke. Such designated area(s) (if provided) shall be the only place in the workplace in which smoking will be permitted. Comparable non-smoking areas of sufficient size and capacity will be made available to accommodate the needs of all non-smoking employees. No department head or appointing authority who has control or authority over a city facility, which constitutes a workplace, shall knowingly permit a violation of this policy

Any employee having a complaint that they are being exposed to smoke or smoking by-products because of poor ventilation or inadequate non-smoking areas may object in writing to their department head. The department head must respond to the employee within ten (10) working days of receipt of the complaint.

If the issue is not resolved to the satisfaction of the employee within ten (10) days, they may immediately file a written complaint to the administrative officer, who will respond within ten (10) working days of receipt of that complaint.

If, after twenty (20) working days from the date the original complaint was filed with the department head, the city has not begun to resolve the objecting employee's complaint, the employee may file a written complaint with the department of health.

Any employee who continues to knowingly violate this policy may be subject to disciplinary action.

2.17. Drug and alcohol-free workplace

It is the policy of the city to provide employees with a working environment that is free of the problems associated with the use and abuse of controlled substances. The use of controlled substances is inconsistent with the behavior expected of employees and subjects the city to unacceptable risk of workplace accidents or other failures that would undermine the city's ability to operate effectively and efficiently

The non-prescriptive use, sale, possession, distribution, dispensation, manufacture, or transfer of controlled substances on city property, or at any other worksite where employees may be assigned, or elsewhere during work hours, is strictly prohibited.

Further prohibited is the use, sale, possession, distribution, dispensation, manufacture, or transfer of controlled substances on non-working time to the extent that such use impairs an employee's ability to perform their job or where such use, sale, possession, distribution, manufacture, or transfer affects the reputation of the city to the general public or otherwise threatens its integrity.

Employees who are convicted of controlled substance-related violations in the workplace under state or federal law, or who plead guilty or *nolo contendere* to such charges, must inform their supervisor within five (5) days of such conviction or plea.

Employees who are convicted, or who plead guilty or *nolo contendere* to such drug-related violations may be required to successfully complete a drug abuse or similar program as a condition of continued employment or re-employment.

All employees must sign a statement indicating that they have been informed of the rules and requirements of the Drug Free Workplace Act.

The city recognizes that drug dependency is an illness and a major health problem. The city's objective is to prevent conviction for drug related offenses prior to their occurrence. Employees who wish to obtain assistance in dealing with such problems are encouraged to contact the administrative officer, or their health insurance provider for assistance. Conscientious efforts to seek such help will not jeopardize an employee's job, and will not be noted in any personnel record.

Violations of any and all provisions of this policy may result in disciplinary action.

Commercial Driver's License (CDL) alcohol and drug testing policy

The following is the policy of the city regarding testing associated with alcohol misuse and drug use by those employees operating motor vehicles which require a Commercial Drivers' License. The terms alcohol misuse, drug use, and substance abuse are used interchangeably herein. Definitions for specific terms used within this policy can be found in the definitions section under General Provisions.

This policy applies to all employees subject to the regulations of the Federal Highway Administration, department of transportation alcohol and drug ruling that includes every person who operates a commercial motor vehicle in interstate or intrastate commerce, and is subject to the commercial driver's license requirements of Part 383.

Safety-sensitive functions

Regulations are based on the delineation of safety-sensitive functions that are defined as including any of the following circumstances and or activities:

- At a carrier or shipper plant, terminal or facility, or other property, or on any public property, waiting to be dispatched, unless the driver is relieved from duty by the employer;
- Inspecting service brakes, including trailer brake connections, parking (hand) brakes, steering mechanism, lighting devices and reflectors, tires, horn, windshield wipers, rear vision mirrors, coupling devices, fire extinguishers, spare fuses, or warning devices for stooped vehicles;

- Inspecting, servicing, or conditioning any City Motor Vehicle (CMV) in operation;
- At the driving controls of a CMV in operation;
- While in or upon an CMV, except when resting in a sleeper berth;
- Supervising or assisting in loading or unloading a vehicle;
- Attending a vehicle being loaded or unloaded;
- While in readiness to operate the vehicle;
- When giving or receiving receipts for shipments loaded or unloaded;
- Performing the driver requirements of sections 392.40 and 392.41 of Part 392, Driving Motor Vehicles, relating to accidents;
- Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Alcohol Prohibitions

The following prohibitions are established by the DOT relative to alcohol use for performance of safety-sensitive functions:

- A driver may not report for duty or stay on duty:
 - With a blood alcohol concentration of 0.04 or greater
 - If in possession of alcohol, unless it is being transported as cargo (this includes any product, medication, or food containing alcohol regardless of the alcohol content)
 - If using alcohol
 - Within four hours of using alcohol
- A driver who has an accident may not use alcohol until post-accident testing is done or for a period of eight hours, whichever comes first
- Drivers cannot refuse to submit to alcohol testing
- Employers who know about any of the above acts cannot permit the driver to perform a safety-sensitive function.

Drug Prohibitions

The following prohibitions are established by the DOT relative to drug use for performance of safety-sensitive functions:

- The Federal Highway Administration (FHA) bans the use of controlled substances by drivers.
- Drivers may not report for duty or stay on safety-sensitive duty while using any controlled substance. There may be an exception to this ruling if a physician has prescribed a substance and has advised you that it does not interfere with your ability to operate a vehicle in a safe manner.
- Drivers may not report for duty or stay on duty if they have tested positive for a controlled substance.
- Employers who know about either of the above acts cannot permit the driver to perform a safety-sensitive function.

- Employers may require drivers to report the use of any therapeutic drugs.

Alcohol and Drug Testing

Testing to determine the presence of alcohol and/or drugs can and may be performed in any of the following situations:

Pre-Employment

Before a new hire can perform any safety-sensitive duties or when a person transfers into a safety-sensitive function from elsewhere in the municipality (no person will be considered for a driver's position who has had a positive drug and/or alcohol test within two (2) years of their application).

Post-Accident

Following an accident where a life was lost or the driver was cited for a moving traffic violation. Post-accident alcohol testing shall be done within two hours of the accident, or not at all. Post-accident drug testing shall be done within 32 hours, or not at all.

Random

Unannounced random testing is required on a certain percentage of drivers each year. The random selection process used shall ensure that each driver has an equal chance of being tested each time selections are made. Drivers are randomly selected from the pool. Random testing for alcohol shall be completed just before, during or immediately after performing safety-sensitive work. Random testing for drugs may be done at any time you are at work. Once notified that you have been selected for random testing, you must proceed immediately to the test site. Random testing is done as follows:

- 25% of all drivers shall be randomly tested for alcohol during the first year of the testing program. The number to be randomly tested in following years depends on the percentage of positive tests for the entire industry.
- 50% of drivers shall be randomly tested for controlled substances during each year of the testing program.

Reasonable suspicion

If the employee's supervisor has reason to believe that their behavior or appearance may indicate alcohol or drug abuse, they may require the employee to be tested. Testing for reasonable suspicion is based on:

- The observances of a trained supervisor
- Specific, clearly stated observations concerning the driver's appearance, behavior, speech or body odor.

Observations made for alcohol testing shall be made just before, during, or just after the performance of safety-sensitive function. The supervisor who makes the observation and determines that reasonable suspicion testing should be done may not conduct the alcohol test on the driver. Alcohol testing for reasonable suspicion must be done within two (2) hours of the observation. Tests that cannot be done within eight (8) hours of the observation shall not be done. An employee cannot report for duty or stay on the job while under the influence of alcohol or while impaired by alcohol as shown by behavior, speech, or performance that indicates alcohol misuse. Employees will not be allowed to continue to perform safety-sensitive duties until their alcohol concentration is less than 0.02 or 24 hours have passed from the

time of initial observation. Action regarding alcohol misuse cannot be taken against a driver unless an alcohol test was administered or was refused by the driver.

Return to duty and follow-up

Return to duty testing is required for drivers who violate prohibitions and are returning to work. In order to return to work, an alcohol concentration of less than 0.02 or a negative drug test is required. Follow-up testing is required when a driver returns to a safety-sensitive function. A minimum of six (6) tests shall be performed during the first year back in a safety-sensitive position. However, follow-up testing may continue for up to five (5) years.

As part of the alcohol and drug rule and this policy, employees must submit to alcohol and drug testing as required. If employees refuse to be tested, they cannot continue on the job. Refusal to be tested is considered to be any time an employee either fails to provide enough breath for alcohol testing or enough urine for controlled substance testing without a valid medical reason after being notified of the testing requirements, or if they clearly obstruct the testing process.

All alcohol testing is done by a certified Breath Alcohol Technician (BAT) in a private setting where no one but you and the BAT can see or hear the test results. An evidential breath testing (EBT) device approved by the NHTSA must be used. The BAT will ask the employee for identification, and the employee may ask the BAT for identification as well.

To complete the test the employee must blow forcefully into the mouthpiece of the testing device. The BAT must show the test result on the testing device. A screening test is done first. If the reading is less than 0.02, the employee will sign the certificate and fill in the date on the form. The test will be reported as negative to the employer.

If the reading is 0.02 or greater, a confirmation test must be done (after 15 minutes but within 20 minutes of the first test). The employee will be asked not to eat, drink, belch, or put anything in their mouth. These steps prevent the buildup of mouth alcohol which could lead to an artificially high result. If the screening and confirmation test results are not the same, the confirmation test result is used.

Drug testing is done by analyzing a urine sample, which is collected in a private location. Urine specimens are divided into two containers by the collection site person in the employee's presence. These two samples, called 'primary' and 'split,' are sent to a testing laboratory certified by the Department of Health and Human Services (DHHS).

At the laboratory, a screening test is performed on the primary sample. If this test is positive for illegal substances, a confirmation test is required. The confirmation test must use a specialized procedure called gas chromatography/mass spectrometry, to ensure that over-the-counter drugs are not reported as positive. If the first test is positive, the Medical Review Officer (MRO) will notify the employee to find out if there is a medical reason for the drug use. If the employee can document why the substance is being taken and the MRO finds it is a legitimate medical use, the test may be reported as negative to the employer.

After being notified that the first test was positive, the employee has 72 hours to request a test of the split specimen. If the employee makes this request, the split specimen is sent to another DHHS-certified lab for the test. If the employee does not contact the MRO within 72 hours, but can prove to the MRO that they had a legitimate reason for not doing so, the MRO can order the split specimen tested. Removal from safety-sensitive duty as required by the DOT following a positive drug test is not delayed to await the result of the split specimen test.

If the analysis of the split sample does not confirm the presence of a drug, the MRO cancels the test and reports this to the DOT, to the employer, and to the employee.

Violation of Policy

Consequences for violating the alcohol or drug prohibitions are as follows:

Alcohol violations

- Removal from safety-sensitive functions
- Prohibition from return to safety-sensitive duties until an evaluation has been done and any recommended treatment is completed
- Employees with an alcohol concentration of 0.02 or greater but less than 0.04 are prohibited from returning to safety-sensitive duties for at least 24 hours.

Drug violations

- Removal from safety-sensitive functions
- Prohibition from return to safety-sensitive duties until an evaluation had been done, recommended therapy is completed, and a verified negative drug test is produced.

The alcohol and drug rule requires that the city, as the employer, provides the employee with an opportunity for treatment. The ruling does not, however, require the city to hold a job open for the employee or to pay for rehabilitation. If the employee violates an alcohol or drug prohibition they must be evaluated by a substance abuse professional to determine what help is needed. If the employee would like further information on alcohol or drug issues, they may do so on a confidential basis through the city's Employee Assistance Program.

2.18. Vehicle use

The purpose of this policy is to set forth the guidelines under which city vehicles will be authorized to be used by personnel and the guidelines under which city vehicles may be used. The provisions of this policy apply to all employees. Employees whose employment is regulated by collective bargaining agreement are subject only to those provisions of this policy not specifically regulated by agreement. It is the policy of the city that certain positions require employee access to municipal vehicles, either during the work shift or on a 24 hour on-call basis. City vehicles are not personal vehicles and are not for personal use. City vehicles should be viewed as belonging to the citizens of the city and are assigned solely for the purposes consistent with providing services to those citizens. The assignment of municipal vehicles during work time is done in a manner consistent with departmental workload and employee function. The assignment of vehicles may be rescinded at any time by the mayor.

The assignment of vehicles for 24 hour use will be made in writing by the mayor, and will only be considered for employees who require a vehicle for the ordinary and necessary discharge of their job functions. Criteria which will be used in the determination of eligibility for 24 hour vehicle use include:

- Officially designated on-call status;
- Requirement for frequent emergency availability;
- Issuance of a communication device;
- Emergency or other equipment contained in the vehicle; and/or
- No city facility is available for garaging in a safe and convenient location.

Vehicle use is limited to travel to and from the residence and place of work. The vehicle should be driven

over the most direct route taking into account road and traffic conditions. The vehicle should not be utilized for travel outside a direct commuting route for personal reasons. Whenever a position becomes vacant, the authorization for 24 hour use shall be re-evaluated. Employees' assigned vehicles for 24 hour use involving a commute of more than twenty-five (25) miles one (1) way shall reimburse the city for the additional fuel cost as determined by the administrative officer.

Employees authorized to commute in a city vehicle may be subject to imputed income tax regulations as set forth by the Internal Revenue Service, which considers a certain portion of the vehicle use (namely the commute) to be income for the purposes of income taxation. The finance department shall be responsible for determining any tax liability and will be provided with the names of all employees authorized to use city vehicles for commuting purposes, and the normal, one-way commuting distance, each December 1st. Employees who are assigned marked and unmarked police vehicles, and/or marked municipal vehicles carrying tools and meeting certain other eligibility criteria will not be subject to imputed income taxation as a result of the vehicle assignment.

Rules Governing Use

- Municipal vehicles may only be used for legitimate municipal business.
- Municipal vehicles will not be used to transport any individual that is not directly or indirectly related to municipal business. Passengers shall be limited to city employees and individuals who are directly associated with city work activity (committee members, consultants, contractors, etc.). Family members shall not be transported in city vehicles.
- Vehicles should contain only those items for which the vehicle is designed. The city shall not be liable for the loss or damage of any personal property transported in the vehicle.
- Employees are expected to keep municipal vehicles clean, and to report any malfunction or damage to their supervisor immediately.
- There is no smoking in any city vehicle.
- Employees' assigned vehicles for commuting purposes are expected to park such vehicles in safe locations.
- Employees must wear seatbelts in vehicles so equipped during operation of the vehicle.
- Employees may not operate municipal vehicles under the influence of alcohol, illegal drugs, or prescription drugs or medications which may interfere with effective and safe operations.
- Employees who operate municipal vehicles must have a valid motor vehicle license issued by the state of their current residence and may be required to provide proof of valid motor vehicle license once every six (6) months.
- Employees driving municipal vehicles shall obey all applicable traffic and parking regulations, ordinances, and laws.
 - Employees who incur parking or other fines in municipal vehicles will generally be personally responsible for payment of such fines unless the payment of such fines by the city is approved by the administrative officer.
 - Employees who are issued citations for any offense while using a municipal vehicle must notify their supervisor immediately when practicable, but in no case later than 24 hours. Failure to provide such notice will be grounds for disciplinary action.
 - An employee who is assigned a municipal vehicle and who is arrested for or charged with a motor vehicle offense for which the punishment includes suspension or revocation of the

motor vehicle license, whether in their personal vehicle or in a municipal vehicle, must notify their supervisor immediately when practicable, but in no case later than 24 hours. Conviction for such an offense may be grounds for loss of municipal vehicle privileges and/or further disciplinary action.

- No employee may use a municipal vehicle for out of state use without advance approval of the mayor.

Failure to comply with any and all provisions of this policy may result in disciplinary action up to and including removal of city vehicle privileges, suspension, and/or termination from city service.

2.19. Key policy

Introduction

The City of North Adams recognizes its commitment to the preservation and protection of its assets and to the maintenance of confidentiality of certain records and documents held in public trust. It is recognized that access is essential to the smooth operation of the city. This access also implies an equally critical concern for the security and integrity of building facilities and their contents. The foregoing needs, concerns, and impacts have provided the framework and rationale for the key control policy and procedures which follow.

Key issue

All city keys are issued by the building department. No other department is authorized to issue keys. A record of keys issued will be kept. Keys are not to be loaned or transferred to others. Individuals who are issued keys shall be held responsible for their use. All keys shall be returned when a person is either no longer employed or no longer requires key access. The employee who was issued the key shall be assessed a \$10.00 fee for a replacement key. The person to whom the key was issued is responsible for its use. Fees to re-key the affected locksets may be assessed to the party who lost the key.

Possession of unauthorized keys

Any person found to be in possession of an unauthorized key shall be liable for its use and subject to disciplinary or legal action. Keys are not to be loaned or transferred to others and if so may result disciplinary or legal action and the original owner will be liable for its use. Unauthorized keys shall be confiscated by the police department and persons not authorized will be removed from the facility.

2.20. Complaint procedure

In accordance with the city's complaint procedure an employee is expected to consult first with their supervisor regarding any action, occurrence, or attitude either expressed or implied which is perceived as being inconsistent with proper performance of the job. If the employee does not feel comfortable consulting with their supervisor, the employee should consult with the administrative officer. If a satisfactory agreement for resolution cannot be made through the regular supervisory channels, the employee may appeal to the mayor in writing with a copy to their supervisor.

It should be realized that going through an appeal does not guarantee a resolution which will necessarily meet with the employee's satisfaction. It does, however, assure a fair hearing and explanation in cases where working differences might occur.

2.21. Disciplinary procedure

Ordinarily, problems in performance or attitude are resolved through discussion with the employee's immediate supervisor or the administrative officer. It may be determined, however, that disciplinary action up to, and including, discharge is the most appropriate action to follow.

The following is a list of representative offenses which will result in disciplinary action, up to and including discharge. It should be stressed that other offenses not listed may also result in discipline up to and including discharge.

- Sleeping or loafing on the job.
- Inefficiency or failure to do amount or quality of work expected.
- Repeated tardiness, absenteeism, or leaving work early.
- Horseplay, practical joking, or other discourteous acts.
- Use of profane or foul language.
- Abuse of coffee or meal breaks.
- Insubordination, including disobedience in complying with requests of supervisor and refusal of job assignments.
- Use of drugs or liquor on city premises or being under the influence of a drug and/or alcohol during working hours. (See Drug and Alcohol Rehabilitation Program)
- Fighting and/or possession of weapons on city property.
- Theft of city property or the property of another employee or visitor.
- Unethical behavior including breach of confidentiality or other unprofessional conduct.
- Willful destruction of city property.
- Falsification of city records, job application, or payroll information including the employee's own payroll information.
- Unauthorized release of city information.
- Solicitation of any type during working hours whether directly or indirectly.
- Failure to acknowledge and/or abide by new policies and/or directives provided to employees.

If an employee's performance, work habits, attitude, conduct, or demeanor becomes unsatisfactory in the judgment of the city, the employee shall be subject to disciplinary action, up to and including dismissal (see Appendix A.4).

PART 3: COMPENSATION POLICIES

3.1. Pay periods

All non-school department employees are compensated on a weekly basis over a fifty-two (52) week period. Employees will be paid weekly with the pay period beginning at 12:00 am on Sunday and ending at 11:59 pm on Saturday. Pay day will be on the Friday following the last day of the previous pay period.

North Adams Public Schools (NAPS) employees are compensated on a bi-weekly basis over a fifty-two (52) week period. The school department pay period begins at 12:00 am on Saturday and runs through the next two (2) weeks until 11:59 pm on Friday. Pay day will be on the Friday following the last day of the previous pay period.

For employees who are not exempt from overtime (hourly): Any time worked in excess of forty (40) hours in a work week will be compensated at one and one-half times the employee's normal rate of pay. It is the policy of the city that overtime will be authorized only in extreme situations where a delay in the performance of the work would adversely affect the city's overall operations. Overtime may be worked by an employee only after approval has been obtained from their supervisor. Hours paid for sick time, holiday, or vacation time are not considered time worked and will not be used in the computation of overtime.

3.2. Compensation for overtime work

Employees will receive compensation as follows for work performed and for services rendered in excess of forty (40) hours during a regular work week. This work and these services will be called overtime work for purposes of this policy.

Department heads will not be entitled to any compensation for overtime unless such compensation is provided for by an ordinance to that effect.

All exempt (salaried) employees will not be entitled to any compensation for overtime work unless such compensation is provided for by an ordinance to that effect.

Non-exempt (hourly) employees will be paid at their regular rate plus an amount equal to fifty (50) per cent of their base pay (also known as time and one half) for all work performed and services rendered in excess of forty (40) hours during any regularly scheduled work week.

Department heads will require their employees to work overtime only when made necessary by unforeseen emergencies which require immediate attention. Any other overtime work which can be reasonably anticipated will require the approval of the fire chief, police chief, director of public services, or the administrative officer.

Hours paid for sick time, holiday, or vacation time are not considered time worked and will not be used in the computation of overtime.

3.3. Call-in pay

Non-exempt (hourly) employees who are called in to perform work or render services will be paid a minimum of four (4) hours at their regular rate of pay for each such occurrence. This call-in pay policy will not apply to any work performed or services rendered either immediately before or immediately after the employee's regularly scheduled hours of work; provided that this call-in work and the employee's regularly scheduled hours are continuous and without cessation except for meals.

3.4. Weather and emergency event compensation

It is the policy of the city to compensate employees who cannot report for work when the municipal building they work in is closed due to snow or other weather-related event.

If a snow or other weather-related event occurs before or during morning commute hours, employees should take a reasonable amount of time necessary to arrive at work safely. Employees who prefer to use accumulated leave time, in lieu of reporting to work, should be allowed to do so. In general, if the city's schools are closed or delayed as a result of the weather, employees may use up to one extra hour in the morning beyond their normal start time to ensure a safe arrival at work, without loss of pay.

Unless municipal buildings are closed by the mayor or their designee, employees who do not report to work at all must use their own accumulated leave for the day. Employees will be compensated for the period that the municipal building in which they work is closed, unless they were previously scheduled to be on vacation, sick, or other leave for that period.

3.5. Worker's compensation

Despite the careful efforts of supervisors and employees to maintain safe working conditions and practices, accidents do happen. The City of North Adams is responsible for providing protection against loss of income and medical expenses incurred for job-related injuries or illness.

The worker's compensation plan provides coverage of medical and related expenses, as well as salary protection for employees under M.G.L. c. 152 and for police and fire personnel under M.G.L. c. 41, s. 111F.

Worker's compensation claim procedure

The worker's compensation claim procedure is in accordance with Massachusetts General Laws, Chapter 152 (including Section 69). This policy covers all employees except those in public safety positions.

If there is a work-related injury or condition in any department that a department head believes will cause an employee to be absent from work for any length of time one of the two following procedures must be followed.

- Work-related injury or condition which results in less than five (5) days lost time from work (medical cases only) - the following forms must be completed and immediately forwarded to the treasurer's office:
 - Form No. 118: employer's notification to insurer of medical only injuries (department of industrial accidents - Form 118). This form is to be completed by the employee, supervisor, and department head.
 - Supervisor's report form: This form is to be completed by the employee's supervisor. It is used for loss control purposes.

- Medical authorization forms: Whenever possible this form should be signed by the injured employee. This form allows the worker's compensation carrier to obtain medical records associated with the case, and to conduct a proper investigation promptly.

These forms, and others if required, will be forwarded to the worker's compensation carrier by the treasurer's office.

- Work-related injuries or conditions which result in five (5) days or more lost time from work. The lost work days do not have to be consecutive. The following forms must be completed after five (5) days or more of lost time and immediately forwarded to the treasurer's office:
 - Form No. 101: employer's first report of injury (department of industrial accidents - Form 101). This form is to be completed by the employee, supervisor, and department head as soon as five (5) days of lost time from work have occurred as a result of an alleged work-related injury or condition. Please note it is the employer's responsibility to file this form. Failure to do so within five (5) days after the 5th working day is lost will result in monetary penalties. Any department incurring a monetary penalty for failure to notify will be responsible for paying any fines.
 - Supervisor's report form
 - Medical authorization form

These forms, and others if required, will be forwarded to:

- Massachusetts Department of Industrial Accidents
- The city's worker's compensation carrier
- Employee

All forms are self-explanatory, and should be filled out in black ink or typed.

If approved

The department will be advised of the amount of worker's compensation that will be paid. The department will then adjust the employee's attendance record to reflect the time charged between the date of the accident and the date of the claim approval.

The employee will receive a worker's compensation check in the mail each pay period as long as the employee is out on approved worker's compensation leave. This check may be signed over to the city, or it may be kept by the employee in lieu of their regular compensation. If an employee chooses to keep the workers compensation check, all benefit contributions must be fully continued. For further information on this policy contact the accounting office. The accounting office will determine the last date the department can pay the employee against accrued sick, vacation and/or personal time, and ask the employee for permission to apply said leave to make up the gap between worker's compensation pay and their normal pay.

If not approved

The city will charge the employee for accrued sick, vacation, or personal time used, beginning with the day following the accident. Payroll records submitted by the department should indicate this usage. The treasurer's office will determine the date accrued sick, vacation, or personal time is exhausted. After that date, no payroll submission for that employee will be accepted.

3.6. Employee compensation under the compensation plan

All employees subject to this policy who are receiving less than the minimum rate of pay for their position as listed in the compensation plan will receive the minimum step immediately.

All new employees subject to this policy will be paid at the minimum rate of pay as specified for their position in the compensation plan.

If an employee, who is on the salary schedule, has a rate of pay that is no longer listed on that schedule they will be moved to the next highest step up from their present rate within their job classification's appropriate grade. This should only occur when the salary schedule has been changed or when an employee has been promoted to the next grade level.

Step increases will not be automatic but will be based on the demonstrated skill and the competence with which the employee performs the duties of their position. After a minimum of one (1) year service in a specific compensation level a step increase to the next higher compensation level in the pay range for the position held may be granted to an employee upon the written recommendation of the department head, board, and/or commission supervising the work of the employee subject to the approval of the mayor when necessary.

Upon a promotion from one job classification to a higher rated classification, the employee promoted will be paid at the rate of pay in the new job classification that is nearest to and yet higher than their present rate of pay.

Upon the adoption of an amendment to the salary schedule increasing the minimums and maximums of the ranges and/or any changes to the actual steps themselves, any employee who has attained a particular level within a salary grade will retain that level in the newly adopted and/or amended salary schedule.

Notwithstanding any of the above policy, the mayor, with the approval of the city council, may promote an employee more than one step within the employee's respective grade up to and including the maximum step in the grade. The employee will be paid at the rate of compensation for the step they were promoted to by this action.

3.7. Job titles

All employees, subject to this policy, in order to be appointed, employed, and/or paid must have a job title that is listed in the classification plan. The title of each class, as set forth in the classification plan, will be the official title of every position allocated to the class for all purposes having to do with each position and the assigned title will be used to designate the position in all payroll, budget estimates, and official records relating to this position. However, for some purposes the appropriate grade number in the compensation plan may be used in lieu of the job title.

3.8. Civil Service law

Nothing contained in the above policy will be construed to be in conflict with Chapter 31 of the General Laws of Massachusetts.

PART 4: LEAVE POLICIES

4.1. Holidays

The offices of the City of North Adams will be closed in observance of the following holidays:

- New Year's Day (January 1)*
- Martin Luther King's Birthday (3rd Monday in January)
- Presidents' Day (3rd Monday in February)
- Patriots' Day (3rd Monday in April)
- Memorial Day (last Monday in May)
- Juneteenth (June 19)*
- Independence Day (July 4)*
- Labor Day (1st Monday in September)
- Columbus Day (2nd Monday in October)
- Veteran's Day (November 11)*
- Thanksgiving Day (4th Thursday in November)
- Christmas Day (December 25)*

* When holidays marked with an asterisk fall on a Saturday they will be celebrated on the preceding Friday and when they fall on a Sunday they will be celebrated on the following Monday.

All employees are eligible to receive pay for these holidays. All employees will receive their regular compensation for all holidays and parts of holidays that occur while the public offices of the city are closed for business. In order to qualify for this holiday pay, however, the employee must have been regularly scheduled to work the day upon which the holiday falls. In addition, the employee must have worked the entire regularly scheduled work day that preceded the holiday and the employee must also work the entire first regularly scheduled work day following the holiday unless such absence from work for either of these required days is due to jury service, vacation, or personal time. However, if either of these days is not worked because of an absence caused by illness the employee will need a note from their doctor certifying the illness.

Employees who observe specific religious holidays that are not listed above and on which regularly scheduled work is due to occur should notify their supervisor at least one week prior to the holiday. Every effort will be made to accommodate the employees request however the needs of our community will always dictate our actions.

4.2. Leave requests

All employees are required to fill out a request for leave form. Requests for vacation leave must be made in advance and approved by the employee's supervisor or by the mayor's office. All other requests for leave should be made in advance or on the first day an employee returns from leave after notifying their superior that they will be absent from work. A copy of all leave requests must be filed in the mayor's office. See Appendix E.1, Leave request form.

4.3. Vacation days

Vacation leave is for the purpose of needed rest and relaxation therefore it is expected that all employees are able to utilize their annual vacation leave. Vacation eligibility will be activated if the employee has worked at least thirty (30) weeks during the preceding twelve (12) months as calculated from June 1st of the current vacation year. Before scheduling vacation time, employees should consult with their supervisor and it will be granted at such a time as will cause the least interference with the regular performance of the work of the city and the employee's department and that also fits the needs of the employee. All requests for vacation time will be granted on the basis of seniority within the requesting employee's department.

The following schedule will be used to determine the number of vacation days available per year to eligible employees:

- Less than two (2) years of service: ten (10) days of vacation
- Between two (2) years and five (5) years of service: twelve (12) days of vacation
- Between five (5) years of service and ten (10) years of service: seventeen (17) days of vacation
- Between ten (10) years of service and fifteen (15) years of service: twenty-one (21) days of vacation
- Between fifteen (15) years of service and twenty (20) years of service: twenty-four (24) days of vacation
- More than twenty (20) years of service: twenty-eight (28) days of vacation

Vacation time is to be used and is tracked on a calendar year's basis (from January through December). Vacation time is not cumulative and must be taken in the year in which it is granted.

All vacation time is prorated to reflect the employee's actual assignment.

Vacation carry over is not consistent with the spirit of this policy; however sometimes activities require some flexibility. Therefore all employees may request to carry over up to but not more than 25% of their annual credit each year with approval of the mayor. A request for vacation carry over must be submitted prior to December 15th in order to carry over any vacation time.

4.4. Sick days

Upon the successful completion of twelve (12) months of service sick days will be earned and may be used by any employee if they are sick or disabled, to attend medical or dental appointments, or for sickness prevention. Sick leave may also be used to care for a sick or injured member of the employee's immediate family (spouse, significant other, child, or parent). The sick employee will continue to receive their regular compensation while out of work according to the following schedule:

One (1) day for each three (3) weeks worked during the preceding twelve (12) months. The number of days allowed for paid sick leave will not be reduced by holidays or by any other day or days that are not included in the employee's normal work week. Sick time may be taken in hourly increments. All sick day pay is prorated to reflect the employee's actual assignment. Three (3) or more consecutive days of sick leave may require a physician's certificate to be submitted to the department head and mayor's office.

Sick days that are unused are accumulated and can be used to cover an employee absent for a documented medical reason. Accrued sick days can be used for a medical issue covered under the Family Medical Leave Act (FMLA) which allows an employee to be out for up to twelve (12) weeks and retain their position but does not require that the person be paid while out on leave.

Be aware that a fellow employee will need to assume at least some of the duties when another employee is absent, therefore, please use sick days sparingly. As the policy states, sick days are to be used for personal injury, sickness, and/or illness. In addition, sick days may be used for doctors, dentists, and other such appointments. Employees who violate this policy will be subject to disciplinary action. An employee will not receive any sick pay and/or other benefits while absent from work for the following reasons:

- The voluntary use of intoxicating liquor, drugs, or narcotics
- Self-inflicted injuries
- Injuries sustained while engaged in or resulting from or arising out of the commission of a felony or a misdemeanor involving moral turpitude

An absence from work caused in whole or in part by any of the conditions listed above will automatically disqualify the employee from receiving sick pay and/or any other benefits while disabled.

4.5. Personal days

All permanent employees of the city will be eligible for four (4) paid personal days granted on January 1st to the employee. These personal days are to be used before January 1st of the following year. There will be no carrying forward of personal days from one calendar year to the next. In addition, there will be one day of paid personal leave on the Friday following Thanksgiving. However, if an employee is required to work or perform services for the city on the Friday after Thanksgiving, they will receive their regular compensation for that work. Therefore, because this day is scheduled to be used as a personal day, if the employee works during that day there will be no holiday pay differential applied to their wages. However, the employee will receive compensatory time off equal to the number of hours that they worked on this specific designated personal day.

Personal day time may be taken in hourly increments.

Unused personal time will be added to the employee's sick day bank at the end of the calendar year. All personal day pay is prorated to reflect the employee's actual assignment.

4.6. Small necessities leave

Under Massachusetts law, and in accordance with the Family Medical Leave, employees of the City of North Adams are entitled to twenty-four (24) hours of intermittent unpaid leave for certain family related activities, such as

- Participation in school activities directly related to the educational advancement of a child;
- Accompanying a child to routine medical/dental appointments;
- Accompanying an elderly relative to routine medical/dental visits or other professional services directly related to elder care.

Leave shall be unpaid, unless the employee applies any paid leave that they have available.

4.7. Jury duty/civil service leave

If an employee is called to serve for jury duty, the city will allow the employee time off to fulfill this civic requirement. The employee must notify their immediate supervisor as soon as they are summoned, in order to appropriate the required coverage. For state court jury duty, the city will pay for the first three (3) days of service at the employee's normal rate of pay. However, any time served after this three (3) day period will not be compensated. If an employee is dismissed from jury service before 10:00 am, they will be required to report to work unless instructed otherwise by their supervisor. The city does not pay for service as a federal juror; the government provides that pay.

4.8. Child rearing leave

The city provides pregnancy disability leaves of absence to eligible employees who are temporarily unable to work due to a disability related to pregnancy, for childbirth or related medical conditions, and leaves of absence in order to adopt a child (or children).

Employees who have completed six (6) months of employment in a full time position are eligible to request pregnancy disability or maternity leave as described in this policy.

Employees should make requests for pregnancy disability leave, childbirth, or adoption leave to their supervisors at least thirty (30) days in advance of foreseeable events and as soon as possible for unforeseeable events. Requests must be in writing and include the anticipated start of the leave and the intention to return with an anticipated date.

Pregnancy disability leave, childbirth, and adoption leave will be concurrent with the benefits of other types of leave such as the Family Medical Leave Act (FMLA) and medical leave. If the employee is eligible under the guidelines of the Massachusetts Maternity Leave Act (MMLA), the portion of the leave that may extend beyond the date of childbirth will be counted toward fulfillment of the requirements of that act.

A health care provider's statement must be submitted verifying the need for pregnancy disability leave or childbirth and its beginning and expected ending dates. Any changes in this information should be promptly reported to the city. Employees returning from pregnancy disability leave or childbirth must submit a health care provider's verification of their fitness to return to work.

Employees are normally granted leave for the period of disability up to a maximum of eight (8) weeks per child or adoption (see also FMLA policy for potential greater leave entitlement). Employees will be paid accrued sick time until benefits are exhausted, and then paid accrued personal, or vacation time available following the guidelines of the general leave policies. Employees may choose to be in an unpaid leave status for any period covered under the MMLA. For all other disability time, or if the employee chooses to be paid for a period of disability under the MMLA, payment of accrued sick time will occur before the other categories of accrued time are used as described above and following the guidelines of the general leave policies.

Subject to the terms, conditions, and limitations of the applicable plans and general leave policies, the city will continue to provide health insurance benefits for the full period of the paid, approved pregnancy disability leave, childbirth, or adoption leave. Employees are required to pay the same deductions they paid prior to the commencement of the leave. Payments not made within thirty (30) days of their due date will trigger cancellation of health insurance coverage. Insurance benefits may be available during the period of unpaid leave, if the employee is also eligible under the terms of the FMLA, subject to the FMLA policy. If an employee fails to return from maternity leave, the city may seek reimbursement from

the employee for the portion of the premiums it paid on behalf of the employee (also known as the employer contribution) during the employee's leave.

So that an employee's return to work can be properly scheduled, anyone on pregnancy disability leave, childbirth, or adoption leave is requested to provide the city with at least two (2) weeks advance notice of the date they intend to return to work.

When a leave ends, the employee will be reinstated to the same position, unless either the job ceased to exist because of legitimate business reasons, or if the job could not be preserved due to operational needs. If the same position is not available, the employee will be offered a comparable position in terms of such issues as pay, position, and shift. The employee's restoration rights are the same as they would have been had the employee not been on leave.

Thus, the employee will be subject to any pay/benefit reductions or other adverse actions, including layoffs, which they would have experienced if they had not taken leave under this policy.

An employee is not entitled to seniority or benefits accrual during periods of unpaid leave, but will not lose any seniority or accrued benefits earned prior to the leave.

Failure to report to work promptly at the end of the pregnancy disability leave, childbirth, or adoption leave will be considered a voluntary resignation.

4.9. Family and Medical Leave Act (FMLA) and definitions

All full and part-time employees who have been employed by the city for at least twelve (12) full months, not necessarily consecutively, and who have worked a minimum of 1,250 hours during the immediately preceding twelve (12) months are eligible for a leave under this policy.

In accordance with the Family and Medical Leave Act of 1993 (FMLA) the city will grant eligible employees up to twelve (12) weeks of unpaid leave during the twelve (12) month period beginning on January 1st and concluding on December 31st of each year for any of the following reasons:

- To care for the employee's child within one year of birth, adoption, or the initiation of foster care;
- To care for a child, spouse, or parent with a serious health condition;
- Due to the employee's own serious health conditions making them unable to perform their job; or
- For exigent services leave (military) when the employee's spouse, child, or parent is called up to or put on active military duty.

The FMLA also provides twenty-six (26) weeks of unpaid leave in a single twelve (12) month period for an employee caring for a covered service member recovering from an illness or injury suffered in the line of duty while on active military duty, and who is the spouse, parent, child, or next of kin of the covered service member.

Upon completion of FMLA leave, an employee generally will be reinstated to the position that the employee held when the leave commenced, or to a position with equivalent pay, benefits, and other terms and conditions of employment. The employee's restoration rights are the same as they would have been if the employee had not been on leave. In the event that an employee's position would have been eliminated or if the employee's employment would have been terminated before the leave, the employee does not have the right to be reinstated.

Scheduling of family and medical leave

Eligible employees may take a maximum of twelve (12) weeks of leave during a twelve (12) month period; the twelve (12) month period will be measured from January 1st through December 31st of each calendar year.

Family leave, i.e.; leave for childbirth, adoption, or foster care must be taken and completed within one (1) year of the birth, adoption, or the initiation of foster care. Such leave ordinarily must be taken all at once unless the employee's supervisor and/or the mayor agree to an alternative leave arrangement that satisfies the operational needs of the city.

Medical leave, i.e.; leave for the serious health condition of an employee or the employee's relative, may be taken whenever medically necessary. Depending on the circumstances, medical leave may be taken all at once or intermittently. However, if the employee's need for intermittent leave is foreseeable based on planned medical treatment, the employee must make a reasonable effort to schedule the treatment in a way that will minimize disruptions to the city's operations. The city may, with justifiable cause, ask an employee to modify their treatment schedule to better accommodate the city's needs and/or may require the employee to transfer temporarily to a position with equivalent pay and benefits that better accommodates recurring periods of leave.

Employee notice requirements

When the need for the requested leave is foreseeable or in the case where an intermittent leave schedule is necessary for planned medical treatment, employees must provide as much prior notice as reasonably possible and make every effort to schedule the leave so as not to disrupt business operations.

Medical certification requirements

Any employee requesting a medical leave must provide a doctor's statement supporting the employee's need for that leave within fifteen (15) days of making the request for the leave. Employees should contact the payroll supervisor as soon as they learn of their need for a medical leave in order to obtain the city's medical certification form.

The city may require a second or a third medical opinion (at the city's expense).

A doctor's statement may be required periodically while an employee is on medical leave in order to certify the employee's continuing need for a leave. A doctor's statement may also be required if an employee requests an extension of a leave, or if there is a significant change in circumstances related to the employee's need for a leave.

As a condition of returning to work, an employee who has been on medical leave must present a doctor's statement certifying that the employee is well enough to return to work. A medical certification also will be required in any case where an employee on a FMLA leave represents that they are unable to return to work for medical reasons. (Note: If an employee fails to return from a FMLA leave, the city may seek reimbursement for any health insurance premiums that it paid during the leave unless the employee cannot return for medical reasons or other circumstances beyond the employee's control.)

Status of compensation and benefits while on FMLA leave

FMLA leave will be without pay except when an eligible employee uses accrued sick, vacation, and/or personal leaves to qualify for compensation during time away from work. In those cases where employees have leave pay available, they are required to use it first to substitute for the unpaid leave.

The city will maintain an employee's health, life, and dental insurance coverage for the duration of the employee's FMLA leave. The city will continue to pay its portion of the employee's health and life insurance premiums, provided that the employee pays their contributory portion on a timely basis. The employee is also responsible for the timely payment of the entire cost of the dental plan. Employees requesting leave should contact the payroll supervisor to arrange an acceptable payment schedule.

The city will maintain and pay its portion of the premiums for other benefits during FMLA leave provided that the employee pays their contributory portion on a timely basis. (Note: Employers are not required to continue any benefits other than medical insurance during FMLA leave unless a lapse in coverage would jeopardize the resumption of such benefits at the conclusion of FMLA leave.)

Employees will not accrue paid leave benefits, i.e.; vacation, sick, personal days, during FMLA leave. However, such leave periods will be treated as continuous service for the purpose of calculating retirement plan vesting and eligibility.

Return to work

An employee on FMLA leave is expected to report periodically to their supervisor concerning their status and intent to return to work. The city will make every effort to restore all employees on leave to their original positions or to positions of equivalent pay, benefits, and other employment terms. If an employee fails to return to work on or before the previously agreed upon return to work date, they will be considered to have abandoned their job and they will be terminated.

Certain highly compensated or "key employees" may be denied restoration to their prior/equivalent position. Denial would be based on the following conditions:

- The denial is necessary to prevent substantial economic injury to the city;
- The city has notified the employee of their "key" status as well as its decision to deny restoration should the leave take place or continue; and
- The employee elects not to return to work after being notified of
- the city's decision.

See the mayor's office for more information regarding FMLA.

FMLA Definitions

"Twelve (12) month period" means the period of time from January 1st to December 31st of each year.

"Spouse" means a husband or wife as defined or recognized under state law for purposes of marriage, including common law marriages and does not include unmarried domestic partners. If both spouses work for the city, their total leave in any twelve (12) month period will be limited to an aggregate of twelve (12) weeks if the leave is taken for either the birth of a child, placement for adoption or foster care of a child, to care for a sick parent, or an aggregate of twenty-six (26) weeks to care for a covered service member.

“Child” means a child either under eighteen (18) years of age, or eighteen (18) years of age or older who is incapable of self-care because of a mental or physical disability. An employee’s “child” is one for whom the employee has actual day-to-day responsibility for care and the term “child” includes a biological, adopted, foster, and/or step-child.

“Parent” means a biological parent of an employee or an individual who stood in local parentis to an employee when the employee was a son or a daughter.

“Covered military member” for purposes of exigent circumstances leave means those members called or ordered to active duty as part of a contingency operation, who are retired members of the regular armed forces, or members of the retired reserve, the ready reserve, the select reserve, the individual ready reserve, or the national guard. It does not include members of the regular armed forces.

“Next of kin” means the nearest blood relative other than a spouse, parent, or child, with priority given to the blood relative who has been given legal custody, followed by brothers, sisters, grandparents, aunts and uncles, and first cousins. The service member also may designate next of kin in advance.

“Qualifying exigencies” means (a) short-notice deployment; (b) attendance at military events and related activities; (c) childcare and school activities: where as a result of the military member’s active duty or call to active duty status, the covered employee is required to arrange for alternative childcare arrangements, provide childcare on an urgent, immediate basis, enroll or transfer a child to a new school or daycare center, or attend meetings with staff at a school or daycare facility; (d) financial and legal arrangements: a covered employee may take leave to make financial or legal arrangements that address the covered military member’s absence while on active duty or their call to active duty status; (e) counseling; (f) rest and recuperation (for which an employee may use up to five (5) days of leave to spend with a covered service member for each instance of rest and recuperation during the period of deployment up to a maximum total of twelve (12) weeks; (g) post-deployment activities, including attendance at arrival ceremonies and reintegration briefings; and (h) additional activities, where the city and the employee agree to the leave.

“Serious health condition” means an illness, injury, impairment, or a physical or mental condition that involves:

- Inpatient care in a hospital, hospice, or residential medical facility;
- Any period of incapacity requiring absence from work of more than three (3) calendar days **and** that involves continuing treatment by a health care provider;
- Continuing treatment by a health care provider for a chronic or long-term health condition that is incurable or which, if left untreated, would likely result in a period of incapacity of more than three (3) calendar days, or
- Prenatal care by a health care provider.

“Continuing Treatment” means:

- Two (2) or more visits to a health care provider within thirty (30) days of the beginning of the period of incapacity;
- Two (2) or more treatments by a health care practitioner on referral from, or under the direction of, a health care provider;
- A single visit to a health care provider that results in a regimen of continuing treatment; or

- In the case of a serious, long term, or chronic condition or disability that cannot be cured, being under the continuing supervision of a health care provider by visiting the health care provider for the condition or disability at least two (2) times per year.

“Key Employee” means: those employees who are among the highest paid ten (10) percent of the employees of the worksite. The worksite is defined by all the employees employed by the city within a seventy-five (75) mile radius.

4.10. Bereavement leave

In the event of death in the immediate family of an employee, the employee will be granted leave with pay in the amount of five (5) working days, and such leave shall not be charged to sick leave or vacation leave.

For the purpose of bereavement funeral leave, “immediate family” shall be as follows:

- a parent, child, or sibling, by birth or law
- a spouse, grandparent, grandchild

An employee will be allowed two (2) days to attend the funeral of:

- an aunt, uncle, niece, or nephew
- a relative customarily living within the employee’s immediate household.

4.11 Military leave

The city will grant leaves of absence without pay to regular full-time permanent employees who are drafted or are recalled to active service in the armed forces of the United States according to the provisions of the Veterans’ Reemployment Rights Statute.

Employees, while serving in active military duty, will be suspended from coverage under the city’s fringe benefit program but will be reinstated immediately on return to active employment with the seniority and status to which they would have been entitled had they not entered military service.

Upon leaving for military duty, the employee will receive accrued vacation pay for which they are eligible on the date the leave of absence begins.

Suspension of benefits does not apply to any employee entitled to a leave of absence during the time of their compulsory service in the armed forces of the Commonwealth or during a compulsory annual tour of duty not exceeding seventeen (17) days as provided in Chapter 33, Section 59 of the General Laws as a member of a reserve component of the armed forces of the United States, and shall receive their ordinary remuneration therefore. Absence from work for military training as provided in this section shall not affect the employee's right to receive normal vacation, sick leave, or other employment benefits. Employees will be eligible to receive the difference between their regular wages/salary and military pay for no more than ten (10) working days per calendar year.

4.12. Payment of unused sick days upon retirement

Upon retirement and with at least twenty (20) years of service as an employee of the city, an employee covered by Section 2-31.1 of Article III of Chapter 2 of the Revised Ordinances will be entitled to twenty (20) dollars per day for each day of unused sick leave up to and including two hundred (200) days. The

employee will also be eligible to receive twenty-five (25) dollars per day for each day of unused sick leave from the two hundred and first (201st) day up to and including a maximum of three hundred (300) days of unused sick leave that has been accumulated under the provisions of the city's sick leave policy in effect at the time of the employee's retirement. Payments will be computed and paid in and for the entire fiscal year in which additions and/or deletions to amounts payable are made.

4.13. Examination by city physician

The city's physician, upon request by the mayor and/or any department head, will examine any employee claiming compensation under the city's sick pay policy and/or other paid leave benefits such as worker's compensation in order to return to work while out on the FMLA. The physician will report their findings to the mayor and/or the employee's department head. They will continue to do so as frequently as requested for the duration of the condition. It is the duty of the physician to report to the mayor and/or the department head when they determine that the condition under review ceases to cause the employee to be absent from work. This policy will not be construed to mean or to entitle any employee to medical treatment or any other services from the city physician.

PART 5: GENERAL POLICIES

5.1. Personnel folder

All formal action concerning employment with the city including applications, promotions, payroll changes, offer letters, disciplinary records, training information, and transfers will be kept in the employee's personnel folder in accordance with M.G.L. c. 149, § 52C. This is an employment record and serves as a basis for references in case an employee leaves the city for other employment or wishes for re-employment later on.

An employee may review their personnel record after scheduling an appointment with the mayor's office. All of the contents of the folder will be shown.

5.2. Personnel records

This policy applies to all general government employees. Employees subject to Massachusetts Civil Service Laws and/or collective bargaining agreements are subject only to those provisions in this policy which are not specifically regulated by civil service law or collective bargaining agreement.

A centralized personnel file shall be kept for each employee in the Mayor's Office. Such files shall include applications, evaluations, reports, and records pertinent to an employee's employment. To ensure the uniformity and confidentiality of employee personnel files, content of, and access to files is limited and shall be controlled in accordance with this policy.

It is the policy of the city that all employees shall comply with the laws governing public records and confidential information. No employee shall knowingly or willingly release confidential personnel information, nor shall employees refuse to provide public information. City employees have a diminished expectation of privacy as public employees.

Content

Pre-employment documents such as applications, resumes, required licenses, offer of employment letters, copies of transcripts or diplomas, pre-employment physical reports, military discharge documentation, civil service certifications, and other similar materials shall be included in the personnel file.

Post-employment documents such as performance appraisals, disciplinary action notices, physician's statements, commendations, civil service promotional certifications, copies of information sent to the employee, or to third parties about the employee, shall be included in the personnel file. When post-employment information is inserted into an employee's personnel file (excluding routine paperwork), they shall be given a copy of such material by the mayor or their designee.

The mayor at their discretion shall determine whether a report or record will be placed in the employee's personnel file, except for information submitted by the employee in rebuttal. Any material submitted by a person other than the mayor or the employee (excluding routine paperwork) shall be forwarded to the mayor for their approval prior to insertion into the file.

All medical-related information will be kept segregated.

Removal

Once inserted into an employee's personnel file, documents may only be removed if there is a clear and compelling reason to do so. The employee must make such requests. The employee should forward a request to the mayor. The mayor will make a determination as to whether or not the material in questions should be removed from the employee's personnel file.

Location and Security

Employee personnel files will be maintained in the mayor's office at city hall under the supervision of the mayor's administrative assistant, who will be responsible for their safety and security. It is the responsibility of the department head to forward all relevant documents to the mayor's office for inclusion in the official file. Department heads may keep duplicate copies of personnel records. However, these personnel records maintained in remote locations are considered to be part of the employee's personnel record and must be shown to the employee upon request.

Access

An employee, upon written or verbal request and in the presence of the mayor's administrative assistant or designee, may review, add rebuttal to a particular document, or be provided with a copy of all or part of their personnel file. An employee now or formerly in the employ of the city may see and or receive a copy of their own personnel records by asking in person or in writing.

Other individuals authorized access to employee personnel files include: the mayor; administrative officer; the mayor's administrative assistant; attorneys or union representatives of the employee who have written authorization from the employee; the department head who supervise the employee; attorneys or their agents representing the city; and third parties in response to a court order.

A subpoena or court order requires the appearance of the named individual, such as the keeper of records, and may also require those individuals to bring to a court appearance certain employee records which they have in their possession. Any employee who receives a subpoena or court order requiring personnel or payroll information should contact the mayor's administrative assistant immediately. The city will only release confidential personnel information in response to a court order. The employee will be notified by the mayor's administrative assistant in the event that confidential employee data is released in response to a court order.

Authorized employees may respond to requests for verification of employment from banks, mortgage companies, credit card agents, etc. by providing basic public information such as length of service and salary rate. Employees who receive requests for personnel information other than employment verification, even that which is public record, should refer such requests to the personnel director or to their designee.

5.3. Media relations

City staff will make every effort to assist the press and other communications media to obtain complete and adequate coverage of the City of North Adams. All representatives of the media will be given equal access to information about the City.

General releases of interest to the entire community will be made available to all the media simultaneously. There will be no exclusive releases except as media representatives request information on particular programs, plans, or issues.

In order that City publicity is given wide coverage and is coordinated into a common effort and purpose, the following procedures will be followed in communicating official information to the news media:

- The mayor will be the official spokesperson for all matters in the City, except as this duty is delegated to the others by the mayor.
- All City press releases will be reviewed and approved by the mayor or their designee before being released to the media, unless prior approval for release is sought and received.
- Communications related to public safety may be sent by the police or fire directors without prior approval when the information is of an emergency or time-sensitive nature.

5.4. Release of information

All requests for information that are considered restricted or confidential concerning the city, its employees, the city council, and board members must be forwarded to the mayor.

If there is a doubt as to confidentiality, employees must check first with the mayor before releasing such information. Any news articles or press releases, or other documentation or materials, without limitation, intended to be released or distributed to the public must be reviewed and approved by the mayor prior to such release or distribution.

5.5. Conflict of Interest law

In addition to the professional integrity that every employee brings to work each day, all employees are required to adhere to the Massachusetts Ethics Law (M.G.L. Chapter 268A)
<http://www.malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter268a>

As required by law, all employees must review and acknowledge receipt of all state-provided materials; complete the state-required ethics training course; and provide a course completion certificate to the city clerk's office.

The state provided online test must be taken within ninety (90) days of an employee's date of hire and repeated every two (2) calendar years during their employment. Please see the city clerk for this information.

The Commonwealth of Massachusetts and the City of North Adams take these issues seriously. Violators of the ethics law face potential prosecution. If you have any questions, please contact the administrative officer.

Please see the city clerk for a copy of the complete conflict of interest document.

5.6. Solicitations

Solicitation of employees is prohibited on city property for any purpose. An exception to this rule is the annual city sanctioned campaign for the United Way.

APPENDIX A: STANDARD OPERATING PROCEDURES

A.1. Hiring procedure

Applications for employment

All applicants for employment will complete an official employment application form that shall be retained by the appointing authority. The form will include a statement signed by the applicant certifying to the truthfulness and accuracy of all information provided on the form. Resumes may be accepted as supplements to the application, but not as substitutes. Language spoken should be included at the end of the employment application or an attached release to the application.

Screening and interviewing

The department head will screen resumes and applications based on criteria established prior to receipt of resumes. Department heads should follow standard procedures when screening resumes and conducting interviews.

The following are general guidelines:

- Screen resumes for minimum entrance requirements;
- Select candidates for interview;
- Devise standard selection questions which are not gender or race biased, and use the same questions for all candidates;
- Notify successful candidates of selection (by telephone and/or mail) and then interview those candidates;
- Select candidates for final (or second) interview, contact references, and conduct final interviews;
- Select final candidate. Review offer to candidate with the mayor or their designee to secure approval;
- Offer the candidate employment in writing; and
- Notify unsuccessful candidates by telephone or by mail.

Reference and background checks

It is the policy of the city to conduct reference checks on the final candidates they are considering to hire. The job applicant will be asked to provide at least three references from previous employment. The appointing authority or their designee will make at least one attempt to contact each reference, and keep careful written records of having done so. The appointing authority or their designee shall not request any information about a job applicant from a previous employer, family member, or other source that it may not itself request of the job applicant.

Candidates should be informed that reference checking may be extended to their current and any or all of their previous employers, even though they may not be on their reference list. (Please be sensitive to coordinating the checking of the current employer's reference with the candidate. We do not want to jeopardize their current position). If a candidate tells you not to contact a specific person or employer, please respect that request. The candidate is not required to provide this authorization, but checking references should be considered a very important part of the selection process and should be very cautious about hiring a new employee who will not provide adequate reference checking authorization.

Before making reference calls, the appointing authority or their designee will prepare a set of questions that are related to the position and help with the hiring decision. The appointing authority or their designee should describe to the reference the position that the candidate has applied for and describe what they are looking for in an ideal candidate.

When calling a reference, introduce yourself, state that you are checking the reference on (name), a candidate for (state the position) and you have the candidate's permission to talk with the reference. If they refuse to provide a reference, ask them what their policy is on providing references for current or past employees to assess whether the issue is their blanket policy on providing references or the fact that they will not provide a reference for this particular employee (or former employee). Questions regarding attitude, skills, experience, and performance should be asked.

Reference check questions should be directly related to the duties and performance of the person's job. Do not contact "character references" or references who have not worked with the candidate. Questions related to protected class status or disability claims should be avoided.

While the employer has the right to check employment references, state and federal laws protect candidates and employees from unreasonable intrusions by prospective employers into their private, non-job related activities and status. (There are a few exemptions to this rule, for example, law enforcement candidates).

Offers of employment

Upon approval of the mayor or their designee the department head shall provide an offer of employment in writing to any prospective employee that contains the rate of pay, hours of work, and other relevant information. A copy of such offer of employment should be provided to the mayor's office. Each new employee shall be directed to consult with the administrative officer during the first week of employment to ensure compliance with all legal requirements and facilitate enrollment in health insurance plans and the retirement system, as appropriate.

Pre-employment physicals

Every applicant for permanent appointive benefited employment by the city shall be certified by a practicing physician, designated by the city, as to their physical fitness to perform the duties of the position to which such applicant seeks appointment and as to any physical condition of the applicant which might adversely affect the insurance coverage of the city under Chapter 152 of the General Laws or the group insurance coverage of other city employees. If the mayor deems such action necessary to the protection of the city, they may require any applicant for temporary appointive employment by the city who is to be employed for thirty (30) days or more, or any temporary appointive employee who has been employed by the city for thirty (30) days and has not been so certified, to be certified by a physician designated by the city as to their physical fitness to do the work required by the city, and as to the presence of any condition detrimental to the insurance coverage hereinbefore described. The certification required hereunder shall be in such form as the mayor shall determine. The cost of any physical examination required by this section shall be paid by the city, and shall be charged to the appropriation for the department in which the position is for which such application was made or temporary employment authorized or shall be charged to such special appropriation as the city may make for the purpose of this section.

Hiring documentation

The following documentation should be compiled and forwarded to the administrative officer along with the application for employment/resume prior to the employee's first day of work:

- Payroll authorization form;
- Employment eligibility form (I-9);
- Pre-employment physical examination form, if applicable;
- Confidential employee information form;

On the first day of employment, or at latest, during the first week of employment, the employee will be required to submit the following documentation:

- W-4 or W-4A tax withholding form;
- Retirement form 101;
- Birth certificate;
- Basic and optional life insurance enrollment form or waiver;
- Health insurance enrollment form or waiver;
- Annuity/deferred compensation enrollment form (optional); and
- Section 125 ("Cafeteria Plan") benefit waiver.

A.2. CORI and SORI checks

Where Criminal Offender Record Information (CORI) and Sex Offender Record Information (SORI) checks are part of a general background check for employment or volunteer work, the following practices and procedures will generally be followed.

1. CORI and SORI checks will only be conducted as authorized by the Criminal History Systems Board (CHSB). The city will conduct CORI and SORI checks on personnel who may enter private residences while on municipal business and/or have the opportunity for direct contact with children, disabled persons, or the elderly. All applicants will be notified that a CORI and SORI check will be conducted. If requested, applicants will be provided with a copy of the CORI and SORI policy.
2. An informed review of a criminal record requires adequate training. Accordingly, all personnel authorized to review CORI and SORI in the decision making process will be thoroughly familiar with the educational materials made available by CHSB. The city, consistent with CHSB policy, will not disseminate or share CORI and SORI information except with those authorized personnel granted access to CORI and SORI.
3. Unless otherwise provided by law, a criminal record will not automatically disqualify an applicant. Rather, determinations of suitability based on CORI and SORI checks will be made consistent with this policy and any applicable law or regulations.
4. If a criminal record is received from CHSB, the authorized individual will closely compare the record provided by CHSB with the information on the CORI and SORI request form and any other identifying information provided by the applicant, to ensure the record relates to the applicant.

5. If the city is inclined to make an adverse decision based on the results of the CORI and SORI check, the applicant will be notified immediately. The applicant shall be provided with a copy of the criminal record and the organization's CORI and SORI policy, advised of the part(s) of the record that make the individual unsuitable for the position or license, and given an opportunity to dispute the accuracy and relevance of the CORI and SORI record.
6. Applicants challenging the accuracy of the record shall be provided a copy of CHSB's *Information Concerning the Process in Correcting a Criminal Record*. If the CORI and SORI record provided does not exactly match the identification information provided by the applicant, the city will make a determination based on a comparison of the CORI and SORI record and documents provided by the applicant. The city may contact CHSB and request a detailed search consistent with the CHSB policy.
7. If the city reasonably believes the record belongs to the applicant and is accurate, based on the information as provided in section IV of this policy, then the determination of suitability for the position will be made. Unless otherwise provided by law, factors considered in determining suitability may include:
 - a) Relevance of the offense to the duties and qualifications of the position in question;
 - b) Date of the offense;
 - c) Age of the candidate at the time of the offense;
 - d) Nature, seriousness, and circumstance of any past criminal conviction or pending charge;
 - e) Sentenced imposed and length of any period of incarceration;
 - f) Any reasonable available information concerning compliance with conditions of parole or probation, including orders of no contact with victim and witnesses;
 - g) The individual's conduct and experience in the time since the offense, including, but not limited to, education or professional certification obtained since the time of the offense;
 - h) Any other evidence of rehabilitation.
8. If after review the city makes an adverse decision; it will promptly notify the applicant in writing stating the reasons thereof.
9. The city will maintain the CORI and SORI request forms for the same period of time that the CORI and SORI results are maintained. The CORI and SORI will only be maintained for a period of three (3) years post-employment/volunteer service.

*Non-public safety positions

A.3. Sexual Harassment complaint procedure

Informal process for employees

In determining whether an alleged incident constitutes sexual harassment, the administrative officer will be vested with the authority and responsibility of processing all sexual harassment complaints in accordance with the procedure outlined below, unless the administrative officer is the subject of the complaint.

- Any employee of the city who believes that they have been subjected to sexual harassment is to report the incident(s) to any department head or the administrative officer. The department head is to immediately contact the administrative officer. A written record of the complaint will be made by the party receiving the complaint. A separate file system will be maintained, apart from the employee's personnel record, regarding these complaints and as to all matters relating to the complaints.
- If the alleged harassment involves the administrative officer then the mayor or their designee will investigate the complaint.
- The administrative officer will look at the totality of the circumstances and the context in which the alleged incidents occurred. They will attempt to resolve the problem by conferring with both parties in order to obtain a clear understanding of the facts. All matters involving sexual harassment complaints will remain confidential to the extent possible.
- Employees may be accompanied, at any phase of this process or subsequent hearing by a representative of their choosing.
- The administrative officer will explain each phase of the informal and formal complaint process to an employee who wishes to file a complaint and will assist the employee in the processing of the complaint. In addition, the administrative officer will inform the employee of additional forums for resolution of the complaint such as the Office of Civil Rights (O.C.R.) and the Massachusetts Commission Against Discrimination (M.C.A.D.).
- Under normal circumstances, the administrative officer's investigation will be completed within five (5) working days of the initial complaint. Upon completion of the investigation, the administrative officer shall issue their findings in writing to the employee and the target of the complaint.

Formal process for employees

- A complainant may file a formal complaint immediately or may do so after the administrative officer's efforts to reach a settlement under the informal process have proven unsuccessful.
- The complaint will state clearly and concisely the complainant's description of the incident and will also indicate any remedy sought. The complaint must be signed by the complainant. The administrative officer will send the respondent a copy of the complaint within five (5) working days after it is received. A separate file system shall be maintained as to all matters relating to the complaint. Confidentiality shall be maintained to the extent possible.
- The respondent will have ten (10) working days to respond in writing. This statement will contain full and specific references to each claim in the complaint, admitting, denying, or explaining the complainant's allegations. The respondent must sign their statement which will then be appended to the original complaint. Within three (3) working days, the administrative officer will forward both statements to the complainant and the respondent.

- There will be two modes of resolution for formal complaints. A complaint may be settled through mediation or through a hearing. If the complainant and respondent agree to pursue mediation, a date mutually acceptable to both parties will be set within ten (10) working days. If the mediation results in a mutually acceptable agreement, copies of the agreement will be forwarded to both parties. If the mediation does not result in an agreement, the case will be forwarded to the mayor's office for a hearing by the mayor or the city council.
- When a hearing is requested, the administrative officer will inform the mayor or the city council, as the case may be, and the case will be heard at the next regularly scheduled meeting of the city council pursuant to the provisions of the Commonwealth's Open Meeting Law and/or before the mayor.

Formal hearing

- The purpose of the hearing before the mayor or city council is to determine whether the city's policy on sexual harassment has been violated, and, if so, to determine the appropriate consequences for the violation.
- Both parties will be given a full and fair hearing. The proceeding, although formal, is not a court proceeding and the mayor or city council is not bound by the procedures and rules of evidence of a court of law. In most instances, complainants and respondents will be expected to speak for themselves, although, if desired, each party may be accompanied by counsel or an advocate.
- The presiding officer of the hearing may have counsel present for purposes of assisting in the orderly conduct of the hearing and the questioning of witnesses. The complainant and the respondent will be asked to clarify the issues and to define the areas of disagreement. To encourage a fair and focused hearing, at the start of the proceedings the points of agreement and disagreement will be reviewed. The mayor or the city council, as the case may be, will hear testimony and consider whether the city's policy on sexual harassment has been violated, and, if so, will recommend appropriate consequences.
- The presiding officer will:
 - ensure an orderly presentation of all evidence;
 - ensure that the proceedings are accurately recorded by means of a tape or stenographic recording; and
 - see that a decision is issued no later than ten (10) working days after the conclusion of the hearing or, when written arguments are submitted, ten working days after their submission.
- The mayor or the city council, as the case may be, will:
 - conduct a fair and impartial hearing which ensures the rights of all parties involved;
 - define issues of contention;
 - receive and consider all relevant evidence which reasonable people customarily rely upon in the conduct of serious business;
 - ask relevant questions of the complainant, respondent, and any witnesses if needed to elicit information which may be of assistance in making a decision; and
 - ensure that the complainant and respondent have full opportunity to present their claims orally or in writing and to present witnesses and evidence which may establish their claims.

Decision of the mayor or city council

- After all the evidence, testimony, and written arguments have been presented, the city council will convene for deliberations to determine whether the city's policy on sexual harassment has been violated. If the city council find after a roll call vote that the policy has not been violated, that fact will be registered in the records of the hearing, and the written decision will be forwarded to the complainant and the respondent no later than fifteen (15) working days after completion of the hearing.
- In hearings before the mayor, if the mayor finds that the policy has not been violated, the mayor will issue a written decision to the complainant and the respondent no later than fifteen (15) working days after the completion of the hearing.
- If the city council finds after a roll call vote that the charge of violating the city's policy on sexual harassment has been substantiated, the city council will prepare findings and will determine a penalty for the respondent and relief for the complainant. The city council will issue such decision to the complainant and the respondent no later than fifteen (15) working days after the completion of the hearing.
- In hearings before the mayor, if the mayor finds that the charge of violating the city's policy on sexual harassment has been substantiated, the mayor will prepare findings and will determine a penalty for the respondent and relief for the complainant. The mayor will issue such decision to the complainant and the respondent no later than fifteen (15) working days after the completion of the hearing.
- The findings of fact as well as the penalty and relief will be based solely on the testimony and evidence presented at the hearing.
- The penalty should reflect the severity of the harassment. The penalties may include, but will not be limited to, any one or combination of the following: verbal admonition, written warning placed in the respondent's personnel file, probation, suspension without pay, dismissal, demotion, or removal from administrative duties within a department. The city council or mayor may also make appropriate recommendations, such as professional counseling, and may recommend relief for the complainant which reinstates and restores, as much as possible, the aggrieved party.

A.4. Disciplinary procedure

The major purpose of any disciplinary action is to correct a problem, prevent recurrence, and prepare the employee for satisfactory service in the future.

Generally, first violations receive an initial verbal warning.

Generally, for the second violation of a like nature, or a more serious first offense, a written warning may be issued. The warning will include corrective action that is expected from the employee in order to avoid further violations. In the situation where the offense is so serious that immediate termination is warranted, no prior disciplinary action would be given.

Generally the third violation of a like nature or an even more serious first offense may result in a final warning, and will include corrective action that is expected from the employee in order to avoid further violations. It will also include language that further violations could result in a suspension without pay (pending investigation if applicable), or immediate termination. In the situation where the offense is so serious that immediate termination is warranted, no prior disciplinary action would be given.

Generally the fourth violation of a like nature or an even more serious first offense may result in a suspension without pay (pending investigation if applicable), or immediate termination. In the situation

where the offense is so serious that immediate termination is warranted, no prior disciplinary action would be given.

The city reserves the right to question witnesses and conduct searches as necessary. If the situation warrants, public law enforcement officials will be brought in to aid in the investigation. These progressive steps are guidelines and the city may use progressive discipline at its discretion. In addition, the city reserves the right to accelerate or skips steps at its discretion.

911 Dispatchers – Failure of dispatcher to properly perform TTY and Silent Call taking consistent with procedures and training of the Massachusetts e911 service will result in a written warning with retraining in proper procedures required. A second offense will result in a final warning and retraining in proper procedures required. A third offense will result in a suspension without pay (pending investigation if applicable), or immediate termination. In addition, the city reserves the right to accelerate or skips steps at its discretion.

A.5. Youth employment prohibited occupations

Prohibited hazardous occupations for minors under age eighteen (18)

- Manufacturing and storing explosives;
- Motor vehicle driving;
- Coal mining;
- Logging and saw-milling;
- Operating power-driven wood working machines;
- Operating power-driven hoisting apparatus;
- Any work causing exposure to radioactive substances;
- Operating power-driven metal-forming, punching, and shearing machines;
- Mining, other than coal mining;
- Slaughtering, meat packing, processing, or rendering;
- Operating power-driven bakery machines;
- Manufacturing brick, tile, and similar products;
- Operating power-driven paper product machines;
- Operating power-driven circular saws, band saws, and guillotine shears;
- Wrecking, demolition, and ship-breaking;
- Roofing;
- Excavating;
- Working in railway operations;
- Working in foundries, or working in or about blast furnaces;
- Buffing or polishing equipment;
- Handling, serving, or selling alcoholic beverages;

- Working as a firefighter or engineer on any boat or vessel;
- Manufacturing white or yellow phosphorous matches; and
- Working at any occupation over thirty five feet above ground, floor or water level (including washing windows in a public or commercial building if the window is more than ten feet above the ground or floor level, or the roof of an adjoining building).

Prohibited occupations for fourteen (14) and fifteen (15) year old minors

- Manufacturing of any kind;
- Mining of any kind;
- Processing, such as filleting fish, dressing poultry, or cracking nuts;
- Laundering as performed by commercial laundries and dry cleaning;
- Working in workrooms or workplaces where goods are manufactured, mined, or otherwise processed;
- Working for a public messenger service;
- Operating or tending hoisting apparatus or any power-driven machinery (other than office machines or machines in retail, food service, and gasoline service establishments);
- Working in any occupations found and declared to be hazardous by official designation;
- Working in connection with:
 - The transportation of persons or property by rail, highway, air, water, pipeline, or other means;
 - Warehousing and storage;
 - Communications and public utilities; or
 - Construction (including repair), except in office and sales work in connection with these four categories as long as such office and sales work is not performed at the site of prohibited work;
- Working in or about boiler or engine rooms;
- Maintaining or repairing buildings, machines, or equipment;
- Outside window washing that involves working from window sills;
- Working on ladders, scaffolds, or their substitutes;
- Cooking (except at soda fountains, lunch counters, snack bars, or cafeteria serving counters) and baking;
- Operating, setting up, adjusting, cleaning, oiling, or repairing power-driven food slicers and grinders, food choppers and cutters, and bakery-type mixers;
- Working in freezers and meat coolers and all work in preparation of meats for sale (except wrapping, sealing, labeling, weighing, pricing, and stocking when performed in other areas);
- Loading and unloading goods to and from trucks, railroad cars, or conveyers;
- Working in warehouses except office and clerical work;

- Working in any billiard or pool room;
- Working in the theatrical trades, unless approval is obtained from the state commissioner of labor and industries;
- Working at an occupation involving industrial homework; and
- Working in any of the occupations prohibited for all minors under the age of eighteen (18) as listed.

APPENDIX B: ADA POLICIES AND PROCEDURES

B.1. Grievance procedure under the Americans with Disabilities Act

This grievance procedure is established to meet the requirements of the Americans with Disabilities Act of 1990. It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the City of North Adams. The city's personnel policy governs employment-related complaints of disability discrimination.

Any complaint should be in writing and contain information about the alleged discrimination such as the name, address, phone number of complainant and the location, date, and description of the grievance. Alternative means of filing complaints, such as personal interviews or an audio recording of the complaint will be made available for persons with disabilities upon request.

The complaint should be submitted by the grievant and/or their designee as soon as possible but no later than sixty (60) calendar days after the alleged violation to: the city's ADA coordinator, 10 Main Street, North Adams, MA 01247; (413) 672-0011.

Within fifteen (15) calendar days after receipt of the complaint, the ADA coordinator or their designee will meet with the complainant to discuss the complaint and the possible resolutions. Within fifteen (15) calendar days of the meeting, the ADA coordinator or their designee will respond in writing, and where appropriate, in format accessible to the complainant, such as large print, Braille, or audio recording. The response will explain the position of the city and offer options for substantive resolution of the complaint.

If the response by the ADA coordinator or their designee does not satisfactorily resolve the issue, the complainant and/or their designee may appeal the decision within fifteen (15) calendar days after receipt of the response to the mayor or their designee.

Within fifteen (15) calendar days after receipt of the appeal, the mayor or their designee will meet with the complainant to discuss the complaint and possible resolutions. Within fifteen (15) calendar days after the meeting, the mayor or their designee will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by the ADA coordinator or their designee, appeals to the mayor or their designee, and responses from these two offices will be retained by the city for at least three (3) years.

B.2: Policy statement regarding effective communication with people who are deaf or hard of hearing

Overview

It is the policy of this City of North Adams (city) to ensure that a consistently high level of service is provided to all community members, including those who are deaf or hard of hearing. The city has specific legal obligations under the Americans with Disabilities Act and the Rehabilitation Act. To carry out these policies and legal obligations, the city instructs its employees as follows:

People who identify themselves as deaf or hard of hearing are entitled to a level of service equivalent to that provided to others.

The city will make every effort to ensure that its employees communicate effectively with people who have identified themselves as deaf or hard of hearing.

In many circumstances, oral communication supplemented by gestures and visual aids, an exchange of written notes, use of a computer or typewriter, or use of an assistive listening device may be effective. In other circumstances, qualified sign language or oral interpreters are needed to communicate effectively with persons who are deaf or hard of hearing. The more lengthy, complex, and important the communication, the more likely it is that a qualified interpreter will be required for effective communication with a person whose primary means of communication is sign language or speech reading. For example:

If there has been an incident and a police officer is conducting witness interviews, a qualified sign language interpreter may be required to communicate effectively with someone whose primary means of communication is sign language.

To serve each individual effectively, primary consideration should be given to the communication aid or service that works best for that person. Employees must ask persons who are deaf or hard of hearing what type of auxiliary aid or service they need. Employees should defer to those expressed choices, unless there is another equally effective way of communicating, given the circumstances, length, complexity, and importance of the communication, as well as the communication skills of the person who is deaf or hard of hearing.

Auxiliary aids or services are to be provided free of charge.

On-call interpreter services

The city will use the state's Department for Interpreter/CART Services which provides a statewide Interpreter and CART referral service. One of the functions of the Massachusetts Commission for the Deaf and Hard of Hearing (MCDHH) is its statewide Interpreter and CART referral service. It provides referral services for sign language, spoken English, oral, tactile, and close vision interpreting for deaf and deaf - blind individuals, as well as making referrals to freelance CART providers for CART provision on behalf of hard of hearing and/or late deafened individuals in a wide variety of settings such as medical, legal, mental health, employment, education, and recreational situations. Although there are fulltime staff interpreters employed by MCDHH, some requests are filled by freelance interpreters. All CART requests are filled by freelance CART providers.

The interpreters referred by MCDHH are either certified by the [Registry of Interpreters for the Deaf, Inc. \(RID\)](#), a nationally based professional organization, or have been screened and approved by MCDHH. All interpreters adhere to a strict code of ethics established by RID. CART providers are individuals who are certified as court reporters and meet strict professional standards as established by the [National Court Reporters](#). They, too, have a strict code of ethics regarding the confidentiality of services provided.

Interpreter requests are first reviewed by an intake referral specialist who screens requests. Requests are then referred to the appropriate regional referral specialist. Services are divided into five geographical areas of the state with an interpreter referral specialist assigned to each area.

How do I request an interpreter or CART provider?

Requests are received by the Department of Interpreter/CART Services in 4 ways:

1. [Virtual Gateway](#): This is the preferred way for making requests. Registered users can make new requests and track the progress of their requests online. The service may not be used for cancellations. To register, contact the commission at 617-740-1600 VOICE and 617-740-1700 TTY. All requesters are encouraged to register and make use of this service.

2. [Online Request Form](#): requests may be submitted at any time and will be received by referral staff between 8:45 a.m. and 5:00 p.m.
3. Phone: non-emergencies are received between 8:45 a.m. and 5:00 p.m. at 617-740-1600 VOICE and 617-740-1700 TTY. Legal emergencies are received 24 hours 7 days/week at 800-249-9949 TTY/VOICE.
4. FAX: 617-740-1880 with an [Interpreter Request Form](#) to request for interpreting services, or for CART services, use the [CART Provider Request Fax Form](#).

TTY AND RELAY SERVICES

- In situations when a person would have access to a telephone, employees must provide persons who are deaf or hard of hearing the opportunity to place calls using a text telephone (TTY, also known as a telecommunications device for deaf people, or TDD). Employees must also accept telephone calls placed by persons who are deaf or hard of hearing through the telecommunications relay service.

TYPES OF AUXILIARY AIDS AND SERVICES

- Employees must utilize the following auxiliary aids as appropriate, when available, to communicate effectively:
 - Use of gestures
 - Use of visual aids
 - Exchange of written notes
 - Use of computers
 - Use of assistive listening devices
 - Use of teletypewriters (TTY's)
 - Use of qualified oral or sign language interpreters

B.3. Statement regarding alternate format policy

It shall be the policy of the City of North Adams to make all documents, publications, and material used in agency programs available to persons with disabilities who need them in alternate formats. These include large print, Braille, audio recording, and computer disc. Preparation of Braille materials will be purchased through the Perkins Braille & Talking Book Library.

The procedure for requesting alternate formats is:

1. The person making the request should identify the materials desired and specify their preferred alternate format either in person, by phone, or in writing at least ten (10) business days in advance of the event or activity for which the material is needed. Note: Every reasonable attempt will be made to meet the requests made less than ten (10) days before an event or activity.
2. The request for an alternate format will be forwarded to the administrative officer (if unavailable requests will be processed by the mayor's office). The administrative officer will send requests for Braille materials in electronic formats (preferably word documents) to the Perkins Braille & Talking Book Library.

Judi Cannon, Certified Braille Translator
Perkins Braille & Talking Book Library
175 N Beacon St, Watertown, MA 02472
(617) 972-7646

3. If, after primary consideration has been given to the preferred format, the request cannot be met, an alternative effective format will be offered. If a request cannot be met, the person making the request will be informed as soon as possible but at least two (2) days in advance of the event of the activity. Final determination on such matters shall be made by the administrative officer after consideration with the department head in question.

APPENDIX C: TECHNOLOGY POLICIES AND PROCEDURES

C.1. City of North Adams computing policy

The computing policy was developed to advise all computer users of the computing policy and to assure that abuses to any computing services will be dealt with in an appropriate manner. The policy is meant to provide guidelines for computer users and to make sure that users understand their responsibilities and potential effects of violation of this policy.

All email created or received by an employee is considered a public record and may be subject to public access and disclosure under the Public Records Law, M.G.L. c. 66, § 10. Email messages are subject to the same records, management principles, and retention schedules as all other records applicable to an employee's office.

Each person who utilizes or has access to the City of North Adams' computing equipment in any way (computers, printers, software, modems, phone lines, etc.) shall agree to abide by this policy. All individuals are advised that any abuse or misuse of computing facilities will be referred to their appropriate supervisor for disciplinary action.

Computer usage will be monitored and computing services will be suspended if it is determined that a user is in violation of the guidelines for computing conduct. In addition, the city reserves the right to suspend access, without warning, to any computer facility for an individual who:

- Copies, alters, or deletes files belonging to the City of North Adams.
- Willfully modifies, disables files, or programs belonging to the City of North Adams.
- Uses the computer system to harass other individuals or abuses computer system resources.
- Misuse of computing resources for non-city approved purposes. Computing resources include computers, printers, software, hardware, internet access, email, modems, phone lines, etc. Misuse includes the use of social media sites for non-work related issues.
- Abuses computer terminals, printers, plotters, modems, modem lines, manuals or other computing property.
- Uses obscene or abusive language as filenames or in messages to other users.
- Obstructs the use of computing facilities by other users.
- Fails to observe software copyrights and/or license agreements. This includes reproducing computer software without authorization, as well as installing any software not purchased by the City of North Adams. Reproducing computer software violates U.S. Copyright Laws and is a federal offense.
- Installs and/or runs any software without prior approval by the City of North Adams. All requests for any software installation must be made to the appropriate supervisor. The supervisor must then submit a written request to the MIS director using the attached form.
- Fails to protect and safeguard personally identifiable information.
- Fails to promptly notify a supervisor when personally identifiable information has been compromised.

C.2. City of North Adams cell phone policy

The city issues cell phones to improve job productivity, to enhance safety, and to allow communications during emergencies. City-owned cell phones are to be used to conduct city business. Personal use of city-owned cell phones should be infrequent and of short duration.

To comply with IRS regulations, the city and individuals must distinguish between business and personal cell phone minutes. Employees must reimburse the city for personal calls that exceed short and infrequent usage. Personal alternate lines may be added to city-owned cell phones, to be paid by payroll deduction. Alternate equipment may be arranged when standard equipment is cumbersome. Use of cell phones should be avoided while driving, and in no circumstances are employees allowed to place themselves or others at risk to fulfill business needs.

The purpose of the cell phone policy is to provide clarification for the issuance and use of cell phones and to establish the protocol for reimbursement by employees for personal use of the City of North Adams cell phones. This policy also covers two-way radio systems such as the Nextel system.

A city cell phone will be issued under one or more of the following conditions:

- Job responsibilities require an employee to be away from regular landline access for extended periods of time and communication by the employee is necessary to fulfill job objectives.
- Cell phone use enhances the employee's personal safety on the job, and provides communication during emergencies.
- The employee's role requires the ability to conduct two-way communication at all times.

The issuance of city-owned cellular phones shall be approved by the administrative officer. It shall be the responsibility of the administrative officer to ensure that funds are budgeted for the purchase and monthly service costs prior to issuance.

The city entrusts employees with communications equipment to enhance productivity and safety. It is the employee's responsibility to use the equipment prudently to ensure the safety of themselves, their co-workers, and the general public. Cell phones provided by the city are the property of the city and are to be used to conduct city business. Employee responsibilities for use of city-owned cell phones include:

- Protecting the city-owned cell phone from theft, loss, or damage.
- Immediately reporting loss or theft to supervisor or department head.

As cell phone calls are not secure, use discretion while making sensitive or confidential calls.

Immediately returning the cell phone to supervisor or department head if it is determined that the phone is no longer necessary, or upon leaving city employment.

The general use of cell phones shall not be in lieu of more cost-effective, safe, and available means of communications. The city reserves the right to monitor the use of all city-owned cell phones. Cell phone use in violation of any local, state, or federal law is prohibited. Cell phone use in violation of department work policies or for the purpose of personal financial gain is prohibited. Upon resignation or termination of employment, or at any time upon request, the employee may be asked to produce the cell phone for return or inspection. Employees unable to present the phone in good working condition within the time period requested may be expected to bear the cost of replacement.

City-issued cell phones are issued for work-related activities. While it is understood that occasional personal calls of short duration may be necessary when no other immediate means of communication is available, personal calls, incoming and outgoing, must be kept to a minimum and must be incidental to business use. Employees should use good judgment when making personal calls and should recognize that the city incurs costs for each minute of airtime. Detailed phone call billing statements and records are subject to public records requests.

The following are examples of the types of cell phone calls that may be determined to be made in the interest of city business. Employees are expected to utilize a landline first, if available.

- An emergency or urgent condition where no other form of communication is immediately available.
- Calls to home or doctor if an employee or member of immediate family is injured or becomes sick, or when traveling overnight on city business.
- An employee traveling on city business is delayed by business, transportation, or any other unforeseen problem.
- An employee is required to work overtime without advance notice and calls home to advise family or to arrange alternate child transportation or care arrangements.

IRS regulations stipulate that to be able to exclude from the employee's taxable income the use of a city-owned cell phone, the city must have some method to require the employee to keep records that distinguish business from personal phone charges.

To comply with this requirement, the city requires that each employee track their personal call minutes using the monthly detailed billing statements provided by the administrative officer. Employees must reimburse the city for personal minutes that exceed allowable minutes as defined above. Employees must use the "Team Share Add-On" rate, plus ten percent and rounded up to the nearest dollar, in effect during the applicable billing period, to calculate the amount of reimbursement. If the employee's personal usage causes the city's total business minutes pool to exceed the plan's maximum, the employee must reimburse the city for the excess minutes at the "overage" rate specified on the applicable billing period's invoice statement. Employees may provide reimbursement by payroll deduction or by personal check. Failure to reimburse the city for the cost of personal usage will result in tax liability for the employee as well as possible disciplinary action.

Upon approval of the administrative officer, alternate arrangements may be approved for staff where equipment restrictions do not allow the addition of an alternate line (e.g., Blackberry), or where access to the alternate line impedes its use or the process is determined to be cumbersome. The city will be reimbursed for personal minute usage on an incremental basis, including a proportionate charge for the monthly service. Employees that are approved for this exception are responsible for monitoring their own personal use on at least a quarterly basis, to ensure that personal minute usage does not exceed the incremental minute increase of the plan assigned. Quarterly reimbursements must cover the cost of personal minutes used plus proportionate monthly plan charges.

The administrative officer and/or their designee should review monthly cell phone bills to ensure that calls relate to business or have been properly reimbursed by the responsible employee.

While at work, employees are expected to exercise the same discretion in using personal cellular phones as is expected for the use of city phones. Excessive personal calls during the workday, regardless of the phone used, can interfere with employee productivity and can be distracting to others.

An employee allowed a cell phone may opt to receive a monthly allowance toward their personal cell phone. The monthly cell phone allowances are \$15.00 toward an individual authorized to have a standard cell phone and \$25.00 toward an individual authorized to have a smartphone. The cell phone allowance is considered taxable income to the employee by the IRS. The allowance is intended to reimburse the employee for the average business use of the cell phone, not to pay the entire phone bill. The amount of the allowance should be commensurate with the requirement for business use and should be reviewed periodically by management for change in amount or cancellation.

Supervisors may periodically request that the employee provide a copy of the first page of the phone bill in order to verify that they have an active cell phone plan.

Under no circumstances are employees allowed to place themselves or others at risk to fulfill business needs. Employees whose job responsibilities include regular or occasional driving and who are issued a cell phone for business use are expected to refrain from using their phone while driving, except with the use of a hands-free device and in accordance with applicable laws. Every effort should be made to pull to the side of the road to a safe location prior to answering or initiating cell phone calls. In situations where job responsibilities include regular driving and accepting of business calls, the city will provide hands-free equipment. This rule also applies to use of privately-owned cell phones during business hours.

Employees whose job responsibilities do not specifically include driving as an essential function, but who are issued a cell phone for business use, are also expected to abide by the provisions above.

Employees who are charged with traffic violations resulting from the use of their cell phone while driving will be solely responsible for all liabilities that result from such actions.

C.3. Personal mobile device policy

This policy is to ensure the proper use of personal mobile devices during work hours. This policy applies to all full-time and intermittent city employees, as well as grant funded employees. The policy also applies to temporaries, interns, and volunteers.

Employees, and others designated above, may carry personal cell phones/PDAs/mobile devices during work hours, but are expected to keep personal phone calls and/or text messages to a minimum and of short duration, except in case of an emergency, family illness, or crisis. Personal mobile devices may be freely used during scheduled breaks and meal times in the break area or outside the building. Phone calls or text messages that are not work or emergency related during work time is prohibited. Employees, temporaries, interns, and volunteers who receive such phone calls/messages during work time are requested to quickly conclude the conversation and call back during non-work times. Those that receive frequent incoming calls/messages should inform their family and friends of this policy or simply turn their devices(s) off during work hours.

Ring tones that are offensive or overly distracting during work hours are prohibited.

If there is a temporary personal situation that will require more frequent, unscheduled, mobile usage, they should request approval in advance for the use of the personal mobile device from their manager or supervisor (i.e. mortgage closing, medical problem, etc.).

If this policy is abused by an individual, their manager or supervisor should ask that the behavior is corrected, if it continues, the individual may be required not to carry the device(s) during work hours. Further continuation of the misuse of the devices by an employee will lead to disciplinary action up to and including termination or the end of status as temporaries, interns, or volunteers.

There is also a state law which provides a ban on handheld mobile device use while driving a Commercial Motor Vehicle (CMV). The ban specifies that no driver shall use a handheld mobile device while driving a CMV. A CMV is defined by the US DOT as a vehicle with a single or combined GVWR, or actual weight of over 10,001 pounds, whether they have their CDL or not. The City of North Adams also requires a ban on handheld mobile phones while an employee is driving a city vehicle, including but not limited to pool cars, department, and department head vehicles.

Use of a hand held mobile telephone means:

- Using at least one hand to hold a mobile telephone to conduct a voice communication;
- Dialing or answering a mobile telephone by pressing more than a single button; or
- Reaching for a mobile telephone in a manner which requires a driver to maneuver so that they are no longer in a seated position.

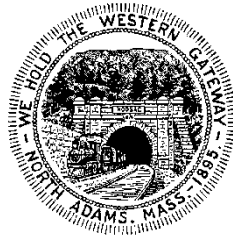
This rule does not prohibit a driver from using a mounted mobile telephone which can be easily accessed from the driver's seat and activated with a single button. Driving means operating a commercial vehicle on a public road, and when stopped in traffic on such a road. Driving does not include instances when the driver is safely parked. Emergency use is permitted.

The term mobile telephone does not include mobile services which are provided for profit, have inter-connected service, and is available to a substantial portion of the public.

Penalty: Drivers who violate the restriction will face federal civil penalties of up to \$2,750 for each offense and disqualification from operating a CMV for multiple offenses. Additionally the Commonwealth of Massachusetts will suspend a driver's commercial driver's license (CDL) after two (2) or more serious traffic violations.

Violation of this policy may also lead to disciplinary action of the employee up to and including termination from employment.

Appendix D - Forms



CITY OF NORTH ADAMS, MASSACHUSETTS
Leave Request

Requests for vacation leave must be made in advance and approved by an employee's supervisor or by the Mayor's Office.

All other leave requests should be made in advance or on the first day an employee returns from leave after verbally notifying their supervisor.

Employee Information

Employee Name

Department

Leave dates requested

From

To

Type of leave requested

- Vacation Sick Personal
 Bereavement Unpaid Other (specify) _____

Comments

Employee signature

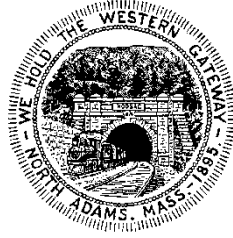
Date

- Approved Declined

Supervisor signature

Date

A copy of all leave requests must be filed in the Mayor's Office



CITY OF NORTH ADAMS, MASSACHUSETTS
Vacation Carryover Request

All employees are authorized to carry over up to, but not more than, 25% of their annual credit each year. All carry over will go into a vacation reserve. No additional carry over will be permitted and vacation days cannot be sold back. The vacation reserve may not exceed 25% of the annual credit at year end.

Employee Information

Employee Name

Department

Carryover request

Hours

Comments

Employee signature

Date

Approved

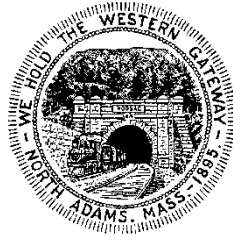
Declined

Supervisor signature

Date

Comments

A copy of all leave vacation carryover requests must be filed in the Payroll Office



CITY OF NORTH ADAMS, MASSACHUSETTS
Acknowledgement of Cell Phone Policy

By signing this form, I acknowledge I have read, understand, and agree to comply with the city's policies for use of cell phones as specified in the cell phone policy contained within the employee handbook. If I misuse or fail to return assigned equipment when requested to do so, I may be liable to the city for the full replacement cost of the equipment. I understand that failure to comply with the stated policies may lead to disciplinary actions, including the possibility of termination of my employment.

Employee signature

Date

Printed name

Return the signed original of this receipt to the Administrative Officer