

# **CITY OF LOCKPORT**

## **EMPLOYEE HANDBOOK**



Adopted by Resolution 112018.11 – November 20, 2018

Amended by Resolution 012622.7 – January 26, 2022

## Contents

I.	Purpose .....	5
II.	Code of Ethics .....	5
	A. Purpose .....	5
	B. Definitions .....	6
	C. Applicability .....	6
	D. Prohibition on Use of Municipal Position for Personal or Private Gain .....	7
	E. Disclosure of Interest in Legislation and Other Matters .....	7
	F. Treatment of public .....	7
	G. Recusal and Abstention .....	7
	H. Exceptions .....	8
	I. Investments in Conflict with Official Duties .....	9
	J. Private Employment in Conflict with Official Duties .....	9
	K. Future Employment .....	9
	L. Personal Representations and Claims Permitted .....	10
	M. Use of Municipal Resources .....	10
	N. Interests in Contracts .....	11
	O. Nepotism .....	11
	P. Political Solicitations and Campaign Activities .....	11
	Q. Confidential Information .....	11
	R. Gifts .....	12
	S. Board of Ethics .....	13
	T. Complaints and Investigations .....	15
	U. Enforcement .....	15
	V. Confidential Ethics Advisory Opinions .....	16
	W. Penalties for Offenses .....	16
III.	Civility Policy .....	16
IV.	Confidentiality .....	16
V.	Hours of Work / Time Records .....	17
VI.	Attendance .....	17
VII.	Secondary Employment .....	17
VIII.	Sick Leave, Vacation and/or Personal Leave & Leaves of Absence .....	17
IX.	Other Leaves of Absence .....	17
	A. Military Service Leave .....	18
	B. Blood Donation / Bone Marrow Donation Leave .....	18
	B. Lactation Breaks .....	19
	C. Voting Leave .....	19

D. Crime Victims Leave.....	19
X. Tardiness .....	20
XI. Break and Lunch periods .....	20
XII. Safety .....	20
XIII. Reporting Accidents or Incidents.....	21
XIV. Motor Vehicle Use and Safety.....	21
A. Purpose.....	21
B. Scope.....	21
C. Driving Rules and Regulations.....	21
D. In Case of Accident .....	24
E. Insurance .....	25
F. Travel / Mileage Reimbursement.....	25
G. DEFENSIVE DRIVING PROGRAM.....	26
XV. Use of City Property and Equipment .....	26
XVI. Family and Medical Leave.....	27
XVII. Workers' Compensation .....	32
XVIII. Medical Coverage.....	32
I. Unemployment Insurance .....	34
II. Agency Shop .....	34
III. Defense and Indemnification .....	34
IV. Drug Free Workplace .....	35
XIX. Employee Assistance Program .....	35
XX. Drug and Alcohol Testing Policy – Safety Sensitive Positions .....	36
XXI. Reasonable Suspicion Testing.....	37
XXII. Non-Smoking Workplace Include vaping,e-cigarettes etc., chewing tobacco .....	37
XXIII. Equal Employment Opportunity .....	37
XXIV. Discrimination, Harassment and Retaliation .....	38
XXV. Reasonable Accommodation for Disability.....	45
XXVI. Health and Safety in the Workplace.....	47
XXVII. Safety Committee.....	47
XXVIII. Building Evacuation.....	47
XXIX. Civil Service Law - An Overview .....	48
A. Classifications .....	48
B. Appointments .....	49
A. Probationary Period.....	49
C. Civil Service Examinations .....	50
XXX. Residency Requirement .....	50

XXXI. Personnel Office .....	52
XXXII. Personnel files .....	52
XL. Resignations .....	53
XLI. Contact Information and Personal Data Changes .....	53
Reference policy .....	53
XLIII. Workplace Violence Policy.....	53
A. Complaint Procedure.....	54
A. Retaliation Prohibited .....	55
Introduction .....	56
What Is “Sexual Harassment”?.....	57
Retaliation .....	59
Reporting Sexual Harassment.....	60
Supervisory Responsibilities.....	60
Complaint and Investigation of Sexual Harassment.....	60
Legal Protections and External Remedies .....	61
Information Technology Policy .....	63
Acceptable Use .....	64
Unacceptable Use.....	64
Occasional and Incidental Personal Use .....	65
Individual Accountability .....	65
Restrictions on Off-Site Transmission and Storage of Information.....	66
User Responsibility for IT Equipment .....	66
Use of Social Media .....	66
a. Use of Social Media within the Scope of Official Duties.....	66
a. Guidelines for Personal Use of Social Media.....	67
Public Relations.....	68
XLVII. Social Media .....	68
Telephones and Other Electronic Devices .....	69
A. Posting and Distribution of Handbook.....	70
Acknowledgment of Receipt .....	71
LIST OF CURRENT LOCKPORT POLICIES .....	72

## **I. Purpose**

This Handbook is intended to inform you of various rules, policies and procedures that relate to your employment with the City of Lockport. This Handbook does not attempt to address every rule, policy or procedure that may apply to your employment. There are many day-to-day practices, for example, that are generally known by all employees. In addition, most employees are covered by a collective bargaining agreement, the terms of which are specific to each agreement and are not set forth herein. The City recommends that its employees familiarize themselves with any such agreement that governs their employment. To the extent anything set forth herein is inconsistent with your collective bargaining agreement, the terms of the collective bargaining agreement will control.

This Handbook is not intended to cover every situation that might arise during your employment. It should be used as a guideline and for reference purposes. Anything contained herein that conflicts or is inconsistent with applicable legal authority shall be void, and the applicable legal source will control.

This Handbook is not intended as an employment contract and does not constitute an expressed or implied contract of employment.

The City expressly reserves the right to change, modify, add to or delete from the provisions set forth in this Handbook, and may unilaterally do so without notice. City personnel will be notified of any changes to the Handbook once they are adopted by the City's Common Council. The Handbook shall be distributed or made readily available to City personnel as soon as practicable following the adoption of any changes thereto.

If you have any questions regarding the content of this Handbook, please submit your question in writing to the attention of your respective department head and Corporation Council.

This Handbook applies to all elected and appointed officials and all City employees.

This Handbook shall be made available at each departmental office and placed on the City's website.

## **II. Code of Ethics**

The City, by and through its Common Council, has adopted the following Code of Ethics:

### **A. Purpose**

Officers and employees of the City of Lockport hold their positions to serve and benefit the public and not for obtaining unwarranted personal or private gain in the exercise and performance of their official powers and duties. The City of Lockport recognizes that, in furtherance of this fundamental principle, there is a need for clear and reasonable standards of ethical conduct. This Code of Ethics establishes those standards.

## **B. Definitions**

As used in this chapter, the following terms shall have the meanings indicated:

- Board -- The Common Council and any municipal administrative board (e.g., Planning Board, Zoning Board of Appeals), commission or other agency or body comprised of two or more municipal officers or employees.
- Code -- This Code of Ethics.
- Interest -- A direct or indirect financial or material benefit but does not include any benefit arising from the provision or receipt of any services generally available to the residents or taxpayers of the municipality or an area of the municipality, or a lawful class of such residents or taxpayers. A municipal officer or employee is deemed to have an interest in any private organization when he or she, his or her spouse or a member of his or her household is an owner, partner, member, director, officer or employee or directly or indirectly owns or controls more than 5% of the organization's outstanding stock.
- Municipality -- The City of Lockport. The word "municipal" refers to the municipality.
- Municipal Officer or Employee -- A paid or unpaid elected or appointed officer or employee of the City of Lockport, including, but not limited to, the members of any municipal board.
- Relative -- A spouse, domestic partner, parent, step-parent, sibling, sibling's spouse, step-sibling, step-sibling's spouse, child, step-child, uncle, aunt, nephew, niece or household member of a municipal officer or employee and individuals having any of these relationships to the spouse of the officer or employee.

## **C. Applicability**

This Code of Ethics applies to the officers and employees of the City of Lockport and shall supersede any prior municipal Code of Ethics. The provisions of this Code of Ethics shall apply in addition to all applicable state and local laws relating to conflicts of interest and ethics, including, but not limited to, Article 18 of the General Municipal Law and all rules, regulations, policies and procedures of the City of Lockport.

This Code of Ethics shall be subject to Article 75 of the New York State Civil Service Law and the respective Collective Bargaining Agreement for the Employee.

This Code of Ethics shall be subject to Article 6 (Freedom of Information Law) and Article 7 (Open Meetings Law) of the Public Officers Law of the State of New York.

In the event of any inconsistency between this Code and a Collective Bargaining Agreement or Article 75 of the New York State Civil Service Law the Collective Bargaining Agreement or Article 75 of the New York Civil Service Law shall supersede.

#### **D. Prohibition on Use of Municipal Position for Personal or Private Gain**

No municipal officer or employee shall use his or her municipal position or official powers and to secure a financial or material benefit for himself or herself, a relative or any private organization in which he or she is deemed to have an interest.

#### **E. Disclosure of Interest in Legislation and Other Matters**

Whenever a matter requiring the exercise of discretion comes before a municipal officer or employee, either individually or as a member of a board, and disposition of the matter could result in a direct or indirect financial or material benefit to himself or herself, a relative or any private organization in which he or she is deemed to have an interest, the municipal officer or employee shall disclose, in writing, the nature of the interest.

The disclosure shall be made when the matter requiring disclosure first comes before the municipal officer or employee or when the municipal officer or employee first acquires knowledge of the interest requiring disclosure, whichever is earlier.

In the case of a person serving in an elective office, the disclosure shall be filed with the Common Council of the municipality. In all other cases, the disclosure shall be filed with the person's supervisor, or, if the person does not have a supervisor, the disclosure shall be filed with the municipal officer, employee or board having the power to appoint to the person's position. In addition, in the case of a person serving on a municipal board, a copy of the disclosure shall be filed with the board. Any disclosure made to a board shall be made publicly at a meeting of the board and must be included in the minutes of the meeting.

#### **F. Treatment of public.**

An officer or employee of the City of Lockport shall treat all members of the public, whether a person, firm or corporation or other organization, with respect and in a professional manner, with equal consideration and without special advantage in carrying out his or her official duties.

#### **G. Recusal and Abstention**

No municipal officer or employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion including discussing the matter and voting on it, when he or she knows or has reason to know that the action could confer a direct or indirect financial or material benefit on himself or herself, a relative or any private organization in which he or she is deemed to have an interest.

In the event that this section prohibits a municipal officer or employee from exercising or performing a power or duty:

- (1) If power or duty is vested in a municipal officer as a member of a board, then the power or duty shall be exercised or performed by the other members of the board; or
- (2) If the power or duty is vested in a municipal officer individually, then the power or duty shall be exercised or performed by his or her deputy, or if the officer does not have a deputy, the power or duty shall be performed by another person to whom the officer may lawfully delegate the function; or
- (3) If the power or duty is vested in a municipal employee, he or she must refer the matter to his or her immediate supervisor, and the immediate supervisor shall designate another person to exercise or perform the power or duty.

## **H. Exceptions**

This Code's prohibition on use of a municipal position (Paragraph<sup>1</sup> D), disclosure requirements (Paragraph E) and requirements relating to recusal and abstention (Paragraph G) shall not apply with respect to the following matters:

- (1) Adoption of the municipality's annual budget.
- (2) Any matter requiring the exercise of discretion that directly affects any of the following groups of people or a lawful class of such groups:
  - (a) All municipal officers or employees;
  - (b) All residents or taxpayers of the municipality or an area of the municipality; or
  - (c) The general public.
- (3) Any matter that does not require the exercise of discretion.

Recusal and abstention shall not be required with respect to any matter:

- (1) Which comes before a board when a majority of the board's total membership would otherwise be prohibited from acting by Paragraph G of this Code.
- (2) Which comes before a municipal officer when the officer would be prohibited from acting by Paragraph G of this Code and the matter cannot be lawfully delegated to another person.

---

<sup>1</sup> Please note that all references to "Paragraph" or "subparagraph" within the Code of Ethics shall refer to the applicable section(s) of this Code, and not to any other section of the Employee Handbook.



## **I. Investments in Conflict with Official Duties**

No municipal officer or employee may acquire the following investments:

- (1) Investments that can be reasonably expected to require more than sporadic recusal and abstention under Paragraph G of this Code; or
- (2) Investments that would otherwise impair the person's independence of judgment in the exercise or performance of his or her official powers and duties; or
- (3) Investments from any City of Lockport auction if the employee or officer is in the position to negotiate, prepare, authorize or approve the contract for the sale upon which he or she is bidding.

This section does not prohibit a municipal officer or employee from acquiring any other investments or the following assets:

- (1) Real property located within the municipality; or
- (2) Less than 5% of the stock of a publicly traded corporation; or
- (3) Bonds or notes issued by the municipality and acquired more than one year after the date on which the bonds or notes were originally issued.

## **J. Private Employment in Conflict with Official Duties**

No municipal officer or employee, during his or her tenure as a municipal officer or employee, may engage in any private employment, including the rendition of any business, commercial, professional or other types of services, when the employment:

- (1) Can be reasonably expected to require more than sporadic recusal and abstention pursuant to § 18-7 of the Code of the City of Lockport; or
- (2) Can be reasonably expected to require disclosure or use of confidential information gained by reason of serving as a municipal officer or employee; or
- (3) Violates § 805-a(1)(c) or (d) of the General Municipal Law; or
- (4) Requires representation of a person or organization other than the municipality in connection with litigation, negotiations or any other matters to which the municipality is a party.

## **K. Future Employment.**

No municipal officer or employee may ask for, pursue or accept a private post-government employment opportunity with any person or organization that has a matter

requiring the exercise of discretion pending before the municipal officer or employee, either individually or as a member of a board, while the matter is pending or within the 90 days following final disposition of the matter.

No municipal officer or employee, for the one-year period after serving as a municipal officer or employee, may represent or render services to a private person or organization in connection with any matter involving the exercise of discretion before the municipal office, board, department or comparable organizational unit for which he or she serves.

No municipal officer or employee at any time after serving as a municipal officer or employee, may represent or render services to a private person or organization in connection with any particular transaction in which he or she personally and substantially participated while serving as a municipal officer or employee.

#### **L. Personal Representations and Claims Permitted**

This Code shall not be construed as prohibiting a municipal officer or employee from:

- (1) Representing himself or herself, or his or her spouse or minor children, before the municipality; or
- (2) Asserting a claim against the municipality on his or her own behalf, or on behalf of his or her spouse or minor children.

#### **M. Use of Municipal Resources**

Municipal resources shall be used for lawful municipal purposes. Municipal resources include, but are not limited to, municipal personnel and the municipality's money, vehicles, equipment, materials, supplies or other property.

No municipal officer or employee may use or permit the use of municipal resources for personal or private purposes, but this provision shall not be construed as prohibiting:

- (1) Any use of municipal resources authorized by law or municipal policy; or
- (2) The use of municipal resources for personal or private purposes when provided to a municipal officer or employee as part of his or her compensation; or
- (3) The occasional and incidental use during the business day of municipal telephones and computers for necessary personal matters such as family care and changes in work schedule.

No municipal officer or employee shall cause the municipality to spend more than is reasonably necessary for transportation, meals or lodging in connection with official travel.

#### **N. Interests in Contracts**

- (1) No municipal officer or employee may have an interest in a contract that is prohibited by § 801 of the General Municipal Law.
- (2) Every municipal officer and employee shall disclose interests in contracts with the municipality at the time and in the manner required by § 803 of the General Municipal Law.

#### **O. Nepotism**

Except as otherwise required by law:

- (1) Effective October 15, 2014, no municipal officer or employee, either individually or as a member of a board, may participate in any decision specifically to appoint, hire, promote, discipline, or discharge a relative for any position at, for or within the municipality or a municipal board.
- (2) Effective October 15, 2014, no municipal officer or employee may supervise a relative in the performance of the relative's official powers or duties.

#### **P. Political Solicitations and Campaign Activities**

No municipal officer or employee shall directly or indirectly compel or induce a subordinate municipal officer or employee to make, or promise to make, any political contribution, whether by gift of money, service, or other thing of value.

No municipal officer or employee may act or decline to act in relation to appointing, hiring, promoting, discharging, or disciplining, or in any manner changing the official rank, status or compensation of, any municipal officer or employee, or an applicant for a position as a municipal officer or employee, on the basis of the giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

No municipal employee shall engage in political campaign activities during his or her official City of Lockport workday.

#### **Q. Confidential Information**

No municipal officer or employee who acquires confidential information in the course of exercising or performing his or her official powers or duties may disclose or use such information unless the disclosure or use is required by law or in the course of exercising or performing his or her official powers and duties.

## **R. Gifts**

- (1) No municipal officer or employee shall solicit, accept, or receive a gift in violation of § 805-a(1)(a) of the General Municipal Law as interpreted in this section.
- (2) No municipal officer or employee may directly or indirectly solicit any gift.
- (3) No municipal officer or employee may accept or receive any gift, or multiple gifts, from the same donor, having an annual aggregate value of \$75 or more when:
  - (a) The gift reasonably appears to be intended to influence the officer or employee in the exercise or performance of his or her official powers or duties; or
  - (b) The gift could reasonably be expected to influence the officer or employee in the exercise or performance of his or her official powers or duties; or
  - (c) The gift is intended as a reward for any official action on the part of the officer or employee.
- (4) For purposes of this section, a gift includes anything of value, whether in the form of money, service, loan, travel, entertainment, hospitality, thing, or promise, or in any other form. The value of a gift is the gift's fair market value, determined by the retail cost of the item or a comparable item. The fair market value of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit is the face value of the ticket, or the actual cost to the donor, whichever is greater. Determination of whether multiple gifts from a single donor exceed \$75 must be made by adding together the value of all gifts received from the donor by an officer or employee during the twelve-month period preceding the receipt of the most recent gift.
- (5) Gifts intended to influence or reward.
  - (a) A gift to a municipal officer or employee is presumed to be intended to influence the exercise or performance of his or her official powers or duties when the gift is from a private person or organization that seeks municipal action involving the exercise of discretion by or with the participation of the officer or employee.
  - (b) A gift to a municipal officer or employee is presumed to be intended as a reward for official action when the gift is from a private person or organization that has obtained municipal action involving the exercise of discretion by or with the participation of the officer or employee during the preceding 12 months.

- (6) This section does not prohibit any other gift, including:
  - (a) Gifts made to the municipality;
  - (b) Gifts from a person with a family or personal relationship with the officer or employee when the circumstances make it clear that the personal relationship, rather than the recipient's status as a municipal officer or employee, is the primary motivating factor for the gift;
  - (c) Gifts given on special occasions, such as marriage, illness or retirement, which are modest, reasonable and customary;
  - (d) Unsolicited advertising or promotional material of little intrinsic value, such as pens, pencils, note pads and calendars;
  - (e) Awards and plaques having a value of \$150.00 or less which are publicly presented in recognition of service as a municipal officer or employee or other service to the community; or
  - (f) Meals and refreshments provided when a municipal officer or employee is a speaker or participant at a job-related professional or educational conference or program and the meals and refreshments are made available to all participants.

## **S. Board of Ethics**

The Board of Ethics shall consist of three members and one alternate, each appointed by a super majority of the Common Council based upon recommendation by the Mayor. Members of the Ethics Board shall be appointed to a three-year term or until such time as a successor is appointed.

If a vacancy shall occur otherwise than by expiration of term, the Common Council shall appoint the new member for the unexpired term based upon a recommendation by the Mayor. The Common Council shall have the power to remove, after public hearing, any member of the Board for cause.

- (1) Qualification of Board Members.
  - (a) All members of the Board of Ethics must be residents of the municipality.
  - (b) The members of the Board of Ethics should be qualified by temperament and experience to carry out the duties and responsibilities of the Board.

- (c) No member of the Board of Ethics may hold office in a partisan political party or hold elective office in the City of Lockport. A Board member may make campaign contributions and vote.
  - (d) Not more than two members of the Board of Ethics may be members of the same political party.
  - (e) No current officer or employee of the City of Lockport is eligible to serve on the Board of Ethics.
- (2) Compensation. Members of the Board of Ethics shall serve without compensation but may be reimbursed for reasonable and necessary expenses, as approved by the Common Council.
- (3) Powers and duties of the Board of Ethics.
  - (a) The Board of Ethics shall select its own Chairperson from within the Board for a one-year term and appoint such staff as necessary to carry out its duties under this chapter and to delegate authority to the Chairperson, if any, to act in the name of Board between meetings of the Board, provided that the delegation is in writing and the specific powers to be delegated are enumerated, and further provided that the Board may not delegate the power to conduct hearings, determine violations, recommend disciplinary action, impose civil fines, refer any matter to a prosecutor or render advisory opinions, except as stated in subparagraph (i) below. The City of Lockport will provide legal counsel as necessary.
  - (b) To prescribe and promulgate rules and regulations governing its own internal organization and procedures in a manner not inconsistent with this chapter or state or federal law.
  - (c) To conduct investigations pursuant to Paragraph T.
  - (d) To conduct hearings, recommend disciplinary action and initiate appropriate actions and proceedings pursuant to Paragraphs R and S.
  - (e) To issue advisory opinions pursuant to Paragraph V.
  - (f) To provide ethics training and education to City officers and employees on the provisions of the City Ethics Law and Article 18 of the General Municipal Law.
  - (g) The Ethics Board of the City of Lockport may act only with respect to officers and employees of the municipality and persons having business dealing with the municipality. The termination of a City officer's or employee's term of office or employment with the City

shall not affect the jurisdiction of the City Ethics Board with respect to requirements imposed by this chapter on former City officers or employees to the extent permitted by law.

- (h) The City Ethics Board may refer any matter within its jurisdiction to the County Ethics Board in its discretion.
- (i) A member of the Board of Ethics may be removed from office by a majority vote of the Common Council for failure to fulfill the duties of the office or for violation of this chapter. The Common Council must give the Board member written notice and an opportunity to reply.
- (j) The Ethics Board must prepare an annual report to the Common Council on its activities and recommend changes to the City Ethics Law.

## **T. Complaints and Investigations**

Upon receipt of a form duly sworn by the person requesting an investigation of an alleged violation of this chapter or upon the Board determining on its own initiative that a violation of this chapter may exist; the Ethics Board shall have the power and duty to conduct any investigation necessary to carry out the provisions of this chapter. In conducting any such investigation, the Board may administer oaths or affirmations, subpoena witnesses and compel their attendance and require the production of any books or records which it may or deem relevant or material. The form to be utilized in requesting an investigation of an alleged violation of this chapter shall be the form available in the office of the City Clerk and on the City website.

The City Ethics Board investigation shall be confidential until such time that a final determination of the City Ethics Board has been made. Thereafter, the City Ethics Board shall state, in writing, its disposition of every sworn complaint it receives and of every investigation it conducts and shall set forth the reasons for the disposition to the Common Council. Any findings of violations of this chapter or other applicable law shall be served upon the subject of the investigation within seven days of such service of any findings of violations of this chapter, and violations shall be made a public record and shall be indexed and maintained on file by the City Clerk.

## **U. Enforcement**

In its discretion and after a hearing in accordance with Article 3 of the State Administrative Procedure Act (SAPA), and subject to § 75 of the Civil Service Law and any collective bargaining agreements, to the extent practicable, the City Ethics Board may recommend for action appropriate disciplinary action which may include a written warning, or reprimand, forfeiture of accrued leave with pay, required attendance at ethics training seminars, suspension or termination of employment to the authority or person or body authorized by law to impose such sanctions.

The City Ethics Board shall conduct and complete the hearing with reasonable promptness and shall not act without notice and opportunity to be heard and shall observe appropriate due process.

## **V. Confidential Ethics Advisory Opinions**

The Board of Ethics shall render confidential advisory opinions only to officers and employees of the City of Lockport with respect to Article 18 of the General Municipal Law and this Code of Ethics. Officers and employees of the municipality are encouraged to seek advisory opinions whenever they are uncertain whether their conduct may violate the Code of Ethics.

The Board of Ethics will prepare an advisory opinion based on a thorough review of the facts and applicable law. The Board's opinion is to be based solely on the facts presented in the request or subsequently submitted in a written, signed document. The opinion will be rendered, in writing, to the requester as expeditiously as is practicable, with special attention to the time requirements of a given case.

An officer or employee of the municipality whose conduct or action is the subject of an advisory opinion will not be subject to penalties or sanctions by virtue of acting, or failing to act, due to a reasonable reliance on the opinion, unless material facts were omitted or misstated in the material submitted by the requester.

The Board of Ethics will maintain a confidential, indexed file of all advisory opinions issued by the Board.

## **W. Penalties for Offenses**

Any municipal officer or employee who violates this code may be censured, fined, suspended, or removed from office or employment in the manner provided by law.

## **III. Civility Policy**

The City expects all of its employees, supervisors, Department Heads and officials to accomplish their work in a respectful and professional manner, and to treat one another in the same fashion. The City prohibits behavior contrary to this policy, including but not limited to yelling, name-calling, using profanity, and any other conduct that is inconsistent with a respectful and professional work environment. Please refer to the Standards of Conduct Policy for additional examples of prohibited behavior.

Any alleged violations of this policy should be reported immediately to a direct supervisor or the Mayor so that appropriate corrective action may be taken as necessary. Violations of this policy may result in disciplinary action.

## **IV. Confidentiality**

As part of their jobs, many City employees deal with confidential matters and information. It is critical that employees with such knowledge or information adhere to appropriate laws and



departmental policies governing confidentiality. Failure to do so is considered a serious offense and could result in disciplinary action. Upon termination of your employment, you will be required to promptly return all documentation and other information relating to City business that you obtained in the course of your employment that are in your possession or control.

## **V. Hours of Work / Time Records**

City offices shall be open for the conduct of business and convenience of the public in accordance with the hours set forth by the Common Council and Department Heads, and in accordance with all applicable laws, rules and regulations.

Accurate records of time worked shall be maintained by each City Department. Arriving early or leaving late solely for your own convenience is not included in working time, provided that you perform no authorized or specified duties for the City during such intervals.

## **VI. Attendance**

In order to function effectively as a City government, it is essential that employees report to work, on time, every day. The City's operations depend upon its employees reporting to work and performing the duties for which they were hired. Employee attendance is an essential function of every position with the City. Excessive absenteeism and/or tardiness will result in disciplinary action.

## **VII. Secondary Employment**

Employees covered by this policy understand and agree that their employment with the City is of basic and primary importance, and that secondary employment must not inhibit or impede the efficient and effective performance of their job duties, responsibilities, or attendance; nor shall it impair their judgement in the exercising of their official duties. Department Heads, Deputy Department Heads and Division Heads engaged in secondary employment will notify the Mayor's Office of the details of their employment.

## **VIII. Sick Leave, Vacation and/or Personal Leave & Leaves of Absence**

In general, most full-time regular City employees will receive or be entitled to accrue various forms of paid leave pursuant to the terms of the collective bargaining agreement that governs their employment. Please refer to the agreement that governs your employment for additional details in this regard.

## **IX. Other Leaves of Absence**

There are numerous laws under which employees may be entitled to leave depending on the circumstances at hand. If you believe you may be entitled to some form of leave, or are unsure whether you qualify, you are encouraged to contact the Mayor with any questions.

In addition to the various forms of leave addressed in other sections of this Handbook, please note that eligible employees may be entitled to the following leaves:

## **A. Military Service Leave**

The City recognizes the obligation of those employees serving in any branch of the military or other uniformed services of the United States. Employment status within the City is protected by the Uniformed Services Employment and Reemployment Rights Act of 1994 and state military leave provisions.

Employees who serve on active or reserve duty will be granted a leave of absence up to the maximum time required by law for eligible military service. The City is committed to preserving the job rights of employees absent on military leave in accordance with law. Military leave is unpaid. However, employees on military leave may choose to apply any accrued paid leave to their absence.

If you need to take military service leave, you or an authorized military service officer should notify your Department Head at least thirty (30) days prior to the start of the anticipated leave. If you are unable to provide thirty (30) days advance notice because of military necessity or for other reasons, you should provide as much advance notice as possible. Notice may be provided verbally or in writing, and should be accompanied by a copy of your military orders, training notice or order to active duty.

Employees on military leave can continue group health insurance through COBRA. If the leave is longer than 6 months, the employee must pay the full premium for the coverage plus a small administrative fee. For more information on COBRA, please contact the payroll office.

In accordance with New York State law, spouses of members of the U.S. armed forces, National Guard or reserves who have been deployed to a combat area during a period of military conflict are entitled to up to ten (10) days of unpaid leave. The military personnel must be on leave from military service at the time the spousal leave is taken. To be eligible for military spouse leave, an employee must work an average of twenty (20) hours or more per week. Notice of leave must be provided to your Department Head as far in advance as possible. The City reserves the right to request documents supporting a request for spousal leave under this policy.

## **B. Blood Donation / Bone Marrow Donation Leave**

### **1. Blood Donation**

Employees who work an average of twenty (20) hours or more per week are entitled to up to three (3) hours of unpaid leave in any 12-month period to donate blood off site. The 12-month period will be based on the calendar year. Exempt employees may be provided time off with pay when necessary to comply with state and federal wage and hour laws.

Employees are requested to give as much advance notice as possible. Employees who donate blood must provide the department head with written verification of the purpose and length of each leave.

## 1. Bone Marrow Donation

In accordance with New York State law, the City offers employees a leave of absence for the purpose of bone marrow or blood donation. Employees who work an average of twenty (20) hours or more each week are eligible to receive up to twenty-four (24) work hours of unpaid leave to donate bone marrow. Exempt employees may be provided time off with pay when necessary to comply with state and federal wage and hour laws. Employees are requested to give as much advance notice as possible. Employees who donate bone marrow must provide the department head with verification from a physician as to the purpose and length of leave requested.

### **B. Lactation Breaks**

All employees who are nursing mothers are eligible to take reasonable breaks under this policy to express breast milk for up to three years after the birth of the employee's child. The City requires all eligible employees who intend to take breaks under this policy to notify Personnel/Civil Service Officer of their intent prior to taking leave, for example, when they are discussing their return to work following leave relating to childbirth.

Eligible employees may take a reasonable amount of break time to accommodate the employee's need to express breast milk for the employee's nursing child. Lunch breaks may also be used for this purpose. Eligible employees should notify the Personnel/Civil Service Officer of the frequency, timing and duration of lactation breaks they need to take, and to obtain information regarding the designated location(s) for such breaks in closest proximity to their work area. The City will make a reasonable effort to provide employees with a nearby private area or room, which is not a bathroom, in which the employee may express breast milk. No employee will be penalized or retaliated against for requesting or taking lactation breaks or for filing a related complaint.

### **C. Voting Leave**

New York Election Law § 3-110 provides that registered voters who do not have sufficient time outside of his/her working hours to vote at an election may be entitled to up to two hours of paid leave in order to vote. An employee is not eligible for voting leave if the employee has four consecutive non-working hours in which to vote either between the polls opening and the beginning of the employee's shift, or between the end of the employee's shift and the polls closing. Employees seeking voting leave must notify his/her Department Head at least two, but not more than ten, working days before Election Day. The City reserves the right to designate that such leave be taken at the beginning or end of the employee's work shift.

### **D. Crime Victims Leave**

The City acknowledges that, on occasion, employees may have an obligation to participate in criminal legal proceedings either as a witness or because the employee was victimized by a criminal act. The City authorizes reasonable and necessary leave from work, without pay, to attend or participate in legal proceedings pertaining to the crime.

Affected employees must give the City reasonable notice of the need for leave. You will be required to submit a copy of the subpoena or other documentation supporting the need for your

appearance, as well as the time(s) and date(s) of your appearance.

## **X. Tardiness**

Any employee not at his or her assigned area at the designated time of work shall be considered late. An employee shall be subject to disciplinary action if he or she is late repeatedly or excessively. If an emergency is likely to cause an employee to be tardy, the employee must phone his or her supervisor as soon as practicable and provide an expected time of arrival.

## **XI. Break and Lunch periods**

Scheduling of breaks and lunch periods is done by the employee's immediate supervisor or Department Head. Employees shall be required to take all break and lunch periods mandated by law.

Breaks and lunch periods may be staggered to ensure continuous coverage of a workstation or operation. A Department Head may reschedule an employee's lunch period to meet any special requirements or emergency conditions. Reasonable advance notice shall be given due to special requirements and/or emergencies for changes in breaks and lunch periods. Any disagreement regarding the reasonable advanced notice shall be resolved through the applicable grievance procedure, if any.

## **XII. Safety**

Employee safety is important to the City. Occupational accidents and illnesses can cause suffering and financial loss to employees as well as to the City. In order to ensure that employees are afforded a safe environment in which to work, every employee must conduct him or herself in a safe manner, abide by established work rules and practices, and immediately notify a supervisor of any unsafe conditions or unsafe behavior by any individuals. If you do not understand procedures, instructions, or the rules, you should seek clarification from your supervisor. Safety rules are made for your protection.

While on the job you should only use City-approved equipment. You are expected to always use the appropriate or required personal safety equipment for a particular task. If you are unsure what equipment to use, safety or otherwise, you must ask a supervisor before attempting to perform the task.

If you observe or otherwise learn about a safety hazard, the City expects you to report it to a supervisor as soon as possible. Do not ignore obvious hazards. Offices and other workplaces should be kept as clean and orderly as possible, including keeping aisles clear of potential tripping hazards.

You must report any incident or injury to anyone, including visitors, that occurs on City property or that appears in any way to have been caused by the City or anyone in its employ to the City Clerk. Report any incident or injury immediately, regardless of the nature or extent

of the injury.

### **XIII. Reporting Accidents or Incidents**

All accidents or unusual incidents involving City personnel or equipment or occurring on City property must be reported to the City Clerk. An unusual incident may be a disturbance, threat, or other event that does not occur on regular basis. These incidents may appear minor but could lead to more serious future incidents. It is therefore important to record such incidents. All such reports should be made in writing, using the appropriate form, as soon as possible following the event at issue. Completed reports should be presented to the City Clerk's Office for handling.

### **XIV. Motor Vehicle Use and Safety**

Municipal vehicles are easily identified and constitute a traveling advertisement seen by many citizens. They have what advertisers call "high exposure". In your relationship with other motorists and pedestrians while operating your vehicle, you control an important influence upon good or bad public relations with the municipality. City-owned vehicles must be used in strict conformance with the provisions set forth herein.

#### **A. Purpose**

To establish rules and procedures for the prevention of injuries and the safe operation of all motor vehicle and motorized equipment owned or operated by the City of Lockport.

#### **B. Scope**

These provisions apply to **ALL** personnel operating or riding in City-owned vehicles or privately-owned vehicles operated for official City business.

#### **C. Driving Rules and Regulations**

All drivers of City vehicles and those using their personal vehicles in pursuit of municipal business will obey **ALL** applicable laws of the State of New York as well as any additional regulations of the City of Lockport. Drivers must have a valid New York State driver's license appropriate for the class of vehicle he/she is driving. Employees operating their own vehicles on behalf of the City must have appropriate insurance in effect. Non-employees may not operate City-owned vehicles. Employees and passengers shall only be allowed access and use of City vehicles for City purposes.

#### **1. EQUIPMENT**

- a) The driver and all passengers in City owned or operated motor vehicles/motorized equipment shall wear the appropriate passenger restraints while the vehicle/motorized equipment is in motion.
- b) Vehicles used to transport employees and/or other passengers shall have seats firmly secured and adequate for the number of employees and/or passengers to be carried.
- c) Vehicles/motorized equipment with moveable windshields are to have these windshields in the "closed" position while in operation.
- d) Portable or detachable doors may not be removed from the

- vehicles/motorized equipment unless: (i) it is necessary in order to perform the job; and (ii) mirrors remain on the vehicle/motorized equipment when the doors are off.
- e) Vehicles'/motorized equipment' doors are not to be left open while the vehicle/motorized equipment is in motion or standing. Nor are doors to be tied open.
  - f) Turn signals will be utilized by all drivers at all times in ample time to warn oncoming or following vehicles of the intent to turn.
  - g) All motor vehicles/motorized equipment will use yellow cautionary lights if the vehicle/motorized equipment are so equipped. *(NOTE: the yellow cautionary light is a cautionary device to protect our employees as well as alert the general public that work is being performed. This device should be used whenever applicable. Any non-working lights should be reported to the supervisor using standard procedures for repair).*
  - h) Drivers will ensure that the windows, headlights, taillights and windshield wipers are operational at all times.
  - i) Tailgates will be up and locked when vehicles equipped are motion. If a vehicle's function requires that the tailgate remain in the open position, red flags will be attached to the outward corners of the gate.
  - j) If the vehicle does not have a tailgate, but is loaded, the driver of the vehicle will ensure that the load is secure on the truck and that overhangs are properly marked in accordance with applicable State and Local Laws (Sec. 380 MVL)

## 2. GENERAL

- a. No one shall operate a motor vehicle unless he/she is properly licensed to do so and properly trained for the operation of specialized motor vehicles or equipment.
- b. Drivers will carry their State Driver's License at all times when operating City owned vehicle/motorized equipment or using their personal vehicle for City use. Suspension or loss of driving privileges will result in full-time drivers being temporarily reclassified if required until such time as their driving privileges are reinstated or temporary restricted license is issued.
- c. Each employee who operates a vehicle regularly or occasionally is required to report any suspensions or revocation of his/her license to his/her supervisor immediately. Failure of any employee to report a change in license status will result in disciplinary action.
- d. The driver shall make certain that all passengers are safely within the vehicle, in proper seats and properly restrained.
- e. Visual inspection of each vehicle or motorized equipment will be conducted by the driver before operation each day. Any damage, defects, etc. shall be reported to your supervisor or Department Head.
- f. No person shall be allowed to stand in any motor vehicle while the

- vehicle is in motion unless said vehicle is designed to be operated in that manner.
- g. No one shall get on or off a motor vehicle while it is in motion.
- h. Passengers shall get in/on and out/off at the right curb only.
- i. Riding on running boards is prohibited.
- j. Posted speed limits shall be adhered to. This includes cautionary limits.
- k. Drivers will direct their full attention to driving only. Inspections of streets, trees, signs, etc. shall be made by a second person other than the driver unless the vehicle is parked.
- l. Know and use all signals appropriate to your operation.
- m. Obey all New York State vehicle and traffic laws and report any and all traffic infractions received while using a City vehicle to their supervisor or department head.
- n. Trailers are to be fastened securely to hitches. Safety chains will be crossed under hitch and securely fastened before moving the vehicle.
- o. Tools and materials shall be secured to prevent movement when transported.
- p. No more than three (3) persons shall ride in the front seat of any vehicle. Where only two single seats exist, there is to be only one rider per seat. No person shall sit in any area of a motor vehicle unless in a prescribed seat. No riding in back of trucks (Sec. 1213 MVL)
- q. Consumption of alcohol beverages, narcotics or other illegal drugs immediately prior to or during operation of a motor vehicle is prohibited.
- r. No motor vehicle shall be operated by an employee under the influence of intoxicating beverages, legal drugs causing drowsiness or other impairments, or illegal drugs. (Sec. 1192 MVL).
- s. Backing up vehicles without a clear view of the area of the rear end will be done only with assistance of a guide. If a second person is in the vehicle, he/she will get out of the vehicle and guide the vehicle using the appropriate hand and voice signals. If the driver is alone and the situation warrants it, the driver will get out of the vehicle and inspect the area behind him before backing up the vehicle. Strict caution should be observed.
- t. To the greatest extent possible no municipal vehicle, except emergency vehicles, is to be left running unattended. If the vehicle is not in use, it should be turned off.
- u. ALL City vehicles and motorized equipment shall be locked up when not in use.

### 3. SPECIAL EQUIPMENT

- a. Special equipment such as tractors, backhoes, hi-lifts or any other unit which has special devices added for a specific type of work will require formal instruction prior to use by a driver.
- b. Construction type equipment will obey all prescribed safety and operational restrictions including the use of yellow flashing light and flashers if so equipped. Triangular, orange-colored slow-moving vehicle signs will be displayed on the rear of the vehicle.

- c. Special equipment operators shall follow all rules set forth in this policy.
- 4. VEHICLE IDENTIFICATION
  - a. All City owned vehicles, except unmarked police vehicles, shall be identified with a City decal on both sides of the vehicle. *(NOTE: Police and Fire Departments may utilize their respective department decal. All others shall use City decal).*
  - b. All City vehicles, except unmarked police vehicles and shall bear identification numbers on both sides of the vehicle as well as the rear of the vehicle.
- 5. USE OF VEHICLE
  - a) All City vehicles are to be used only for official City business during the normal departmental working day, unless specifically directed otherwise by a supervisor

#### **D. In Case of Accident**

Applying the principles of defensive driving should help you avoid accidents. However, should you be involved in an accident involving City owned vehicles, the following procedure must be followed:

- 1. Call 911 immediately.
- 2. Notify the Police Department immediately and request an investigation at the scene. Make sure the accident exchange information forms are completed for all drivers.
- 3. Notify your Department Head and/or Supervisor immediately. Within one (1) hour of the accident the City employee shall be transported by his/her supervisor or Department Head to the City Physician for an evaluation and drug/alcohol screen. The Department Head and/or Supervisor shall report this accident to the City Clerk's Office immediately. The City Clerk shall notify the Mayor's Office of the event as soon as practical but in no instance later than the end of that business day.
- 4. In the event the investigator fails to appear within a reasonable time, exchange names, drivers' license numbers and vehicle numbers with the other person(s) involved. Offer no information regarding the responsibility for the accident or what should have been done to avoid the accident. Proceed to the Police Department (suggest other driver(s) do the same) to report the accident.
- 5. The City employee involved in an accident using a city vehicle shall submit the following to his/her Supervisor or Department Head:
  - a) Accident Reporting Kit
  - b) Copy of Supervisor's/Department Head's Report of Motor Vehicle Accident Investigation.
  - c) Copy of Accident Report from the Police Department (MV 104A)



d) Accident Exchange Information Form.

6. The employee's supervisor shall complete and remit an accident assessment form to the City Clerk within 24 hours for the purposes of evaluating the accident and in determining whether counseling or disciplinary actions are warranted.

The Clerk upon receipt of the accident report kit shall copy same to each member of the Public Health and Safety Committee. Any two (2) members of the Public Health and Safety Committee may call for a meeting to investigate any accident. In the event of an accident the Fleet Safety Committee shall convene in a timely fashion. The Committee shall serve in an advisory capacity only and will examine the circumstances of the accident. The Public Health and Safety Committee is charged with making recommendations to the Mayor and Supervisors/Department Heads about what corrective measures may include but are not limited to training, disciplinary action, or the establishment of certain driving protocol. The Committee shall have the power to require the attendance of any City employee involved in an accident and also the Supervisors/Department Heads of said employee in an investigation meeting.

## **E. Insurance**

In general, when operating a City-owned vehicle for purposes of conducting City business, the employee and passengers will be protected by the City's insurance coverage, subject to the terms of the applicable policy and any exclusions or disclaimers. The employee may be entitled to Workers' Compensation benefits for any injuries sustained in that scenario.

When operating a personal vehicle for purposes of conducting City business, the primary insurance protection (personal injury, comprehensive and collision) will be provided by your personal insurance policy with secondary coverage provided by the City's policy. Workers' Compensation benefits may still be available to the employee in the event he or she suffers personal injury while using a personal vehicle to conduct City business.

## **F. Travel / Mileage Reimbursement**

1. All requests for attendance at seminars or conferences will be submitted to and approved by the Finance Committee.
2. Department attendees to seminars or conferences shall be at the discretion of the Department Head and within the constraints of the departmental budget.
3. Only actual travel and lodging expenses directly attributable to the authorization permitting the travel shall be paid or reimbursed.
4. A City vehicle shall be used for travel whenever practicable. In the event that a privately-owned vehicle (POV) is utilized, reimbursement will be made based on the Internal Revenue Service's established rate per mile. The Director of Finance will verify said rate. Only one (1) mileage reimbursement shall be paid for each POV, transporting up to four employees.
5. Hotel accommodations will be paid or reimbursed only at a "governmental rate", or less. Payment or reimbursement will not be made for hotel suites unless the rate paid is less than the average individual room rate for the total number of individuals staying in the room. If a "governmental rate" is not available, prior approval for the Hotel

accommodations shall be obtained prior to making said reservations. The City shall pay for all approved accommodations. "Tax Exempt Forms" shall be presented to the hotel upon registration and prior notification of tax-exempt status should be made when reservations are confirmed.

6. When housed under the "American Plan" (all-inclusive rate), only normal charges will be paid or reimbursed. Room service charges will not be permitted.
7. Maximum meal payments or reimbursements shall be at the rate not to exceed \$7.00 for breakfast, \$12.00 for lunch and \$27.00 for dinner. No reimbursements shall be made for alcoholic beverages.
8. Utilization of the City's credit card is encouraged when making reservations. In no way should travel expenses be incurred without an approved purchase order.
9. All charges and reimbursement requests shall be submitted in accordance with current procedures and within five (5) business days upon returning. Only the original receipts will be honored for payment. In the event of a lost receipt, the employee is responsible for obtaining a duplicate from the vendor or a signed statement detailing the circumstances shall be submitted.

#### **G. DEFENSIVE DRIVING PROGRAM**

The Public Health and Safety Committee shall have the power to establish a defense driving program for all City employees engaged in the use of a motor vehicle in the performance of their job. Said program will be proactive, in that it is designated to raise the awareness of safe driving practices in an effort to avoid accidents and it shall be reactive, in that any employee involved in an accident that is deemed to be a result of the employee's negligence said employee shall attend a driver's safety course.

### **XV. Use of City Property and Equipment**

The City provides employees with the property and equipment necessary to carry out the responsibilities of their positions. Employees are not permitted to use City property or equipment for personal use.

All City property and equipment should be returned to their proper place when not being used. Any missing or damaged property/equipment should be reported to your supervisor immediately. Removal of any City property, equipment or supplies, or removal of other employees' personal property by an employee without prior management authorization is deemed an act of theft and will result in disciplinary action up to and including discharge. Employees shall not damage or tamper with City or personal property assigned or owned by another City employee. The City is not responsible for the loss of an employee's personal property and asks that each employee exercise care in safeguarding valuable items.

Examples of activities that are expressly prohibited by this section include but are not limited to using copy machines for personal use; permitting family members, or anyone other than the employee entrusted with a City vehicle, to use a City vehicle for transportation, plowing or like activities, removal or use of City trees, limbs, soil, blacktop, millings, scrap steel and road signs and related materials.

Department Heads are responsible for City property and equipment assigned to their respective departments, and to prevent abuse and misuse of same.

## **XVI. Family and Medical Leave**

Employees who have been employed for at least one (1) year, and for at least 1,250 hours during the preceding 12-month period, are eligible for leave under the Family and Medical Leave Act of 1993, as amended ("FMLA). A break in employment for military service (i.e., call to active duty) should not interrupt the twelve (12) month/1,250 hours of employment requirement and should be counted toward fulfilling this prerequisite. The law covers both full-time and part-time employees.

The City uses a 12-month period measured forward from the first date an employee takes FMLA leave (the next 12-month period would begin the first time the employee takes FMLA leave after the completion of the prior 12-month period) of any FMLA usage as its method for calculating the leave year period for the commencement of the FMLA leave period. In certain cases, FMLA leave may be taken on an intermittent basis rather than all at once, or the employee may work a part-time schedule.

The following is a general overview of your rights and responsibilities under the FMLA. This does not address each and every provision of the FMLA. Should you have any questions regarding your rights or obligations under the FMLA, or any questions related to the provisions herein, please contact the Personnel / Civil Service Director.

Eligible employees may be granted leave for one (1) or more of the following reasons:

- a) The birth of a child and care for the child;
- b) Adoption of a child and care for the child;
- c) The placement of a child with the employee from foster care;
- d) To care for a spouse, minor child or parent who has a "serious health condition" as defined by the FMLA;
- e) To care for an adult child who is incapable of self-care due to a disability (regardless of date of the onset of disability) and has a "serious health condition" as defined by the FMLA;
- f) A "serious health condition" of the employee, as defined by the FMLA, that prevents the employee from performing his/her job;
- g) Because of any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation; and/or
- h) To care for a covered military member with a qualifying injury or illness if the employee is the spouse, child, parent or next of kin of the service member.

### Birth or Child Placement

The entitlement to leave for the birth or placement of a child shall expire at the end of the twelve (12) month period beginning on the date of such birth or placement. Spouses who are eligible for FMLA leave and are both employed by the City shall be limited to a combined total of twelve (12) weeks of leave during any 12-month period if the leave is taken for the birth of the employee's child or the care for the child after birth, for placement of a child with the employee for adoption or foster care or to care for the employee's parent with a serious health condition.

### Serious Health Condition

In general, a "serious health condition" is defined as an illness, injury, impairment or physical or mental condition that involves inpatient care or continuing treatment by a health care provider that renders the person incapacitated for more than three (3) consecutive calendar days. Other circumstances, as defined by the law, may also constitute a "serious health condition," including but not limited to an overnight stay in a hospital, incapacity due to pregnancy or for prenatal care, and incapacity due to a chronic serious health condition. See e.g., 29 U.S.C. § 2611(11); 29 C.F.R. Part 825, Subpart A.

### Military Qualifying Exigency Leave

In any case in which the necessity for leave due to a qualifying exigency is foreseeable, the employee shall provide such notice to the employer as is reasonable and practicable. This military-related leave is for up to twelve (12) weeks during a single twelve (12) month period. Leave may be taken intermittently or on a reduced leave schedule. Upon an employer's request, an employee must provide a copy of the military member's active-duty order to support the employee's request for qualifying exigency leave. In addition, the employer may request the following information:

- a) A statement or description of appropriate facts regarding the exigency that is needed;
- b) The approximate date on which the exigency commenced or will commence;
- c) An estimate of the frequency and duration of the exigency if leave is needed on a reduced scheduled basis or intermittently;
- d) If the exigency requires meeting with a third party, the contact information for the third party and description of the purpose of the meeting;
- e) Additionally, the certification for qualifying exigency leave for Rest and Recuperation Leave must include a copy of the military member's Rest and Recuperation Leave Orders, or other documentation by the military setting forth the dates of the military member's leave.

### Military Caregiver Leave

All employees who meet the applicable time-of-service requirements may be granted a total of twenty-six (26) weeks of FMLA leave, during any 12-month period (the 12-month period

commences with the first day of FMLA leave), to care for a covered service member with a serious injury or illness if the employee is the spouse, child, parent or next of kin of the service member. This military caregiver leave is available during a single twelve (12) month period during which an eligible employee is entitled to a combined total of twenty-six (26) weeks of all types of FMLA leave. Military caregiver leave may be combined with other forms of FMLA-related leave providing a combined total of twenty-six (26) weeks of possible leave for any single twelve (12) month period; however, the other form of FMLA leave when combined cannot exceed twelve (12) of the twenty-six (26) weeks of combined leave. Military caregiver leave has a set "clock" for calculating the twelve (12) month period for when FMLA leave begins and tolling starts at the first day of leave taken.

An application for military caregiver leave must be accompanied by a Certification for Serious Injury or Illness of a Covered Service member for Military Family Leave, a copy of which can be found on the City of Lockport's web page in the Employee Portal. This certification must be completed by an authorized health care provider of the covered service member.

### Substitution of Paid Leave

An eligible employee shall be allowed to use sick leave for leave provided under reasons a), b), c) or g) listed herein and shall be required to use accrued paid vacation or personal leave for any additional time beyond these ten days for any part of the remaining twelve-week period of such leave.

An eligible employee shall be required to use accrued paid vacation leave, personal leave, sick leave, or family sick leave for leave provided under reasons d), e), f) or h) herein for any part of the twelve-week period of such leave.

The City shall maintain coverage for health insurance to an employee on leave pursuant to this section for the duration of the twelve-week period, and under the condition's coverage would have been provided if the employee had continued in employment continuously for the duration of such leave. The City may recover the premium that the City paid for maintaining coverage for the employee under such group health plan during any period of unpaid leave if the employee fails to return from leave after the twelve-week period except if the employee fails to return because of the continuation, recurrence, or onset of a serious health condition that entitles the employee to leave under d), e), f) or h) herein or, other circumstances beyond the control of the employee.

The City may designate an employee's leave as FMLA leave, and may do so prospectively or retroactively, provided that the leave is FMLA qualifying. See 29 C.F.R. § 825.301. In the event that the City designates an employee's leave as FMLA leave or requires the employee on FMLA leave to substitute his or her paid leave, the City shall notify the employee of same as soon as practicable.

### Application for Leave

In order to request FMLA leave, employees must complete a Request for Family and Medical Leave of Absence Form, a copy of which can be found on the City of Lockport's web page in the Employee Portal and submit it to Personnel / Civil Service Director. Whenever possible, the form

should be submitted thirty (30) days in advance of the effective date of the leave. Spouses who are both FMLA-eligible and employed by the City may be limited to a combined total of 12 weeks of leave. A notation must be provided on the appropriate request form completed and submitted by any employee requesting FMLA leave and whose spouse also works for the City.

### Employee Notice Requirements

Whenever practicable, and whenever the need for leave is foreseeable, the employee must provide thirty (30) days advance notice of his or her need for FMLA leave. Otherwise, the employee must provide notice as soon as practicable under the circumstances, which is ordinarily within one or two business days of when the need for leave becomes known to the employee. The employee should provide as much advance notice as possible so that the City can make appropriate arrangements to cover any work that needs to be performed in the employee's absence.

An employee must submit an application for FMLA leave that explains the reason(s) for needing leave with sufficient particularity so as to allow the City to determine whether it is for an FMLA-qualifying reason, as discussed further below. Leave may be denied if the employee fails to explain the reason. The employee must also provide the anticipated timing and duration of the leave, and if the timing and duration subsequently changes, to notify the City of same as soon as practicable. Failure to provide this information in a timely fashion may result in a delay in or the denial of the leave, or cause the absence to be considered unexcused, which will lead to disciplinary action. The employee is responsible for complying with any local rules with regard to reporting absences.

When the need for leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment of the employee or the employee's spouse, child or parent, the employee must provide the City at least thirty (30) days' advance notice.

Special rules apply when the employee fails to give advance notice of the need for leave and the City does not learn of the reason for the absence until the employee's return (e.g., where the employee was absent for only a brief period). In such circumstances, if the City does not designate the leave as FMLA leave and the employee desires it to be counted as FMLA leave, the employee must, within two business days after resuming to work, notify the City that the leave was for an FMLA reason. In the absence of such timely notification by the employee, the employee may not subsequently assert FMLA protections for the absence.

An employee taking FMLA leave is required to report periodically on his or her leave status and intention to return to work. If an employee needs leave beyond the anticipated date originally provided for the ending of such leave, the employee must provide reasonable notice to the City as soon as possible and no later than within two business days after learning of the need for an extension of the leave. If the employee is able to return to work earlier than expected, the employee must provide the City with reasonable notice as soon as possible and no later than two days after the employee learns that he or she will be able to return to work earlier than expected. In most circumstances, the City will require at least five (5) business days' advance notice of an employee's anticipated return to work, absent unusual circumstances beyond the employee's control. Failure to provide sufficient notice may result in a delay in returning the employee to work.

## Benefits

An employee on FMLA leave is entitled to have health benefits maintained while on leave. If an employee was paying all or part of the premium payments prior to leave, the employee will continue to pay his/her share during the leave period. Failure of the employee to pay his or her share of the health insurance premium may result in loss of coverage if payment is more than thirty (30) days late. In some cases, the City may recover premiums paid for maintaining an employee's health coverage if the employee fails to return to work from FMLA leave.

In most instances, an employee has a right to return to the same position or an equivalent position with equivalent pay, benefits and working conditions at the conclusion of the leave. The City cannot guarantee that an employee will be returned to his or her original job. Whether a position is "equivalent" will be decided by the City.

An exception to the employment restoration provisions of the FMLA exists for employees designated as "key employees" or "highly compensated employees." The law defines such employees as salaried employees who are among the highest paid 10 percent of employees employed within 75 miles off the facility at which the employee works. Job restoration may be denied to such employees where doing so would cause substantial and grievous economic injury to the operations of the City.

An employee's failure to return to work following the expiration of his or her FMLA leave may result in termination. If you require additional leave beyond the amount of leave afforded under the FMLA, it is your obligation to contact the Mayor to discuss the issue before your FMLA leave has expired.

An employee is not entitled to the accrual of leave credits while on unpaid FMLA leave. An employee who takes FMLA leave will not lose any employment benefits that accrued before the date the leave began.

## Medical Certification

An application for leave based on the serious health condition of the employee or the employee's spouse, child or parent must be accompanied by a certification completed by the health care provider who is treating the individual and set forth the following information: the date on which the condition commenced, the probable duration of the condition, and the appropriate medical facts regarding the condition. If the request for leave is to care for the serious health condition of someone other than the employee, the certification must provide an estimate of the time needed to care for the individual involved. If the request for leave is based on an employee's serious health condition, the certification must state that the employee cannot perform the functions of his or her job.

The employee's direct supervisor should not contact any health care provider regarding the employee's condition; all contact in this manner should be made by a health care provider (employed by the City), or the Personnel / Civil Service Officer, a human resource professional, a leave administrator, or a management official

When the leave is foreseeable, the employee should submit a medical certification before leave

begins whenever possible. Failure to provide a required medical certification within fifteen (15) days after the employee is notified of the requirement to submit the certification, or within a reasonable time under the pertinent circumstances, may result in a delay in or denial of the employee's continuation of FMLA leave and may cause the absence to be considered unexcused, which will subject the employee to disciplinary action. If the employee fails to produce the certification, the leave may not be FMLA leave.

If the medical certification provided by the employee is found to be deficient, the employer must identify the deficiencies, in writing, and give the employee seven (7) days to provide corrected materials to cure any deficiency prior to any action being taken. The City reserves the right to require additional medical certifications and/or recertification as permitted under the FMLA and its attendant regulations. Failure to submit a required recertification may result in disciplinary action up to and including termination.

Prior to an employee's return to work from FMLA leave based on the employee's own serious health condition, the City may require the employee to furnish certification from the employee's health care provider that the employee is able to resume work. The City may also require that the certification specifically address the employee's ability to perform the essential functions of his or her job. The City may delay restoration to employment until an employee submits any required fitness for duty certification. The employee shall be responsible for any costs associated with obtaining such a certification and will not be entitled to any pay for the time or travel costs spent in acquiring the certification.

#### Notice of FMLA Rights

A notice published by the United States Department of Labor regarding employee rights under the FMLA shall be posted in each building in which City employees work.

For more information, please contact the Personnel / Civil Service Officer.

## **XVII. Workers' Compensation**

City employees are covered by Workers' Compensation, which provides benefits for injury or diseases that are sustained as a direct result of performing your job. Eligibility for and the amount of benefits are determined by New York State Workers' Compensation Law.

Every work-related injury **must be reported** to your Department Head or his/her designee as soon as possible. Prompt reporting is critical and necessary, and serves to protect you. You must complete an incident/accident report and return the form to your Department Head. Failure to promptly and timely report an injury or disease may result in a denial of benefits or delay your receipt of benefits. Employees injured while on duty are encouraged to seek medical attention.

## **XVIII. Medical Coverage**

City employees are entitled to join one of the health plans offered by the City, in accordance with the terms of the applicable collective bargaining agreement. Please refer to your collective bargaining agreement for further details in this regard.



## Group Health Insurance Continuation Coverage

Continuation coverage is offered to employees and their families at their own expense for a temporary extension of health coverage at group rates in certain instances where coverage under the plan would otherwise end such as reduction in your hours of employment or the termination of your employment, pursuant to the Consolidated Omnibus Budget Reconciliation Act ("COBRA"). In accordance with COBRA, in the event the City's obligation concerning medical coverage ceases, an employee may continue to participate in the medical program by paying the full cost of premium, plus applicable administrative costs allowed by law, necessary to maintain such coverage directly to the City of Lockport in accordance with their current practice for the period allowed by law or applicable Union Collective Bargaining Agreement. The following is intended to summarize your rights and obligations under COBRA.

If you are an employee of the City covered by a health plan, you have a right to choose this continuation coverage if you lose your group health coverage for any reason.

If you are the spouse of a City employee, you have the right to choose continuation coverage for yourself if you lose group health coverage for ANY of the following reasons:

- 1) The death of a spouse;
- 2) A termination of your spouse's employment (for reasons other than gross misconduct) or reduction in your spouse's hours of employment;
- 3) Divorce or legal separation from your spouse;

In the case of a dependent child, he or she has the right to continuation coverage for any of the following reasons:

- 1) The death of a parent;
- 2) The termination of a parent's employer (for reasons other than gross misconduct) or reduction in a parent's hours of employment with the City;
- 3) Parent's divorce or legal separation;
- 4) The dependent ceases to be a "dependent child."

The employee or a family member has the responsibility to inform the City's payroll department of a divorce, legal separation, child losing dependent status, death, termination of employment or reduction in hours, or Medicare eligibility. Failure to promptly notify the payroll department will result in the termination of coverage, denial of payment of claims or required reimbursement to the City. When the payroll department is notified that one of these events has happened, you have the right to inform the City that you choose to continue coverage. If you do not choose continuation of coverage, your group health insurance will end.

If you choose continuation coverage, the City offers you the same coverage provided under the plan to similarly situated employees or family members. You have the opportunity to maintain continuation coverage for three (3) years unless you lost group health coverage because of a termination of employment or reduction in hours. In that case the required continuation coverage period is eighteen (18) months. Continuation coverage may be cut short for any of the following five reasons:

- 1) The City no longer provides group health coverage to any of its

employees;

- 2) The premium for our continuation coverage is not paid;
- 3) You become an employee covered under another group health plan;
- 4) You become eligible for Medicare;
- 5) You were divorced from a covered employee and subsequently remarry and are covered under your new spouse's group health plan.

You do not have to show that you are insurable to choose continuation coverage.

## **I. Unemployment Insurance**

City employees are covered by the New York State Unemployment Insurance. Its primary purpose is to provide temporary financial assistance to workers who may become unemployed. The conditions under which a person may be eligible for unemployment benefits, the amount of individual payments, the maximum period for payments, are all determined by the New York State Department of Labor. Therefore, questions concerning Unemployment Benefits must be directed to the New York State Unemployment Insurance Office.

## **II. Agency Shop**

The Public Employees Fair Employment Act (the Taylor Law) specifically prohibits any requirement that any employee must become a member of any labor organization. Recent decisions of the United States Supreme Court have precluded public employers and public-sector unions from extracting agency fees or any other payment to the union from non-participating, nonconsenting employees.

## **III. Defense and Indemnification**

Pursuant to Public Officers Law § 18, the City will provide for the defense and indemnification of an employee, as defined therein, in any civil action or proceeding arising out of any alleged act or omission which occurred or allegedly occurred while the employee was acting in good faith and within the scope of his/her public employment or duties. This duty shall not apply to an action or proceeding that is brought by or at the behest of the City. An employee seeking the benefits afforded herein is required to submit a written request for defense and indemnification along with the summons to the City Clerk, City Attorney, or Mayor along with a copy of the summons, complaint, demand or other legal process served upon him or her within ten (10) days after he or she is served with such document(s). The employee must extend his or her full cooperation to the defense of the matter. The City expressly reserves the right to withdraw a defense and/or indemnification to any employee who fails to extend his or her full cooperation.

If an employee seeks a defense and indemnification from the City, it is important that they immediately contact the City Attorney to ensure that all procedural requirements are satisfied to those protections.

## **IV. Drug Free Workplace**

The City of Lockport prohibits the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances, as defined in the Drug Free Workplace Act of 1988, in all City workplaces. As a condition of employment under federally funded programs or contracts, each employee will (i) comply with said prohibition; and (ii) notify the City of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction. In addition, the City prohibits employees from consuming or being under the influence of alcohol while at work. Employees who fail to comply with any terms set forth herein may be subject to disciplinary action, up to and including termination.

Employees seeking information about the dangers of drug abuse in the workplace and/or the availability of drug counseling, rehabilitation or other assistance should refer to the City's Employee Assistance Program and/or contact the City's Civil Service / Personnel Department.

## **XIX. Employee Assistance Program**

### **A. Introduction**

The implementation of the Policy for the Employee Assistance Program will be the cooperative effort of the City of Lockport and the members of the Civil Service Employees Association (Local 832), American Federal of State, County and Municipal Employees (Local 855), the Hickory Club PBA Inc., and the Lockport Professional Firefighters Association (Local 963) and the City of Lockport Department Head Association. The success of the program will depend on the cooperative efforts of the Unions, the City, management and individual employees.

The Administration of the City of Lockport, CSEA (Local 832), AFSCME (Local 855), Lockport Professional Firefighters Association (Local 963), the Hickory Club PBA, Inc. and the City of Lockport Department Head Association recognize that a wide range of problems not directly associated with one's job function can have an effect on an employee's job performance.

The City of Lockport and CSEA (Local 832), AFSCME (Local 855), Lockport Professional Firefighters Association (Local 963), the Hickory Club PBA Inc. and the City of Lockport Department Head Association believe it is in the interests of the employee, employee's family, the Unions and the City of Lockport to provide an employee service which deals with such persistent problems. The Employee Assistance Program is designed to offer help to employees who have personal problems such as family difficulties, alcohol and substance abuse, or other behavioral and emotional disorders which result in absenteeism, and/or deteriorating job efficiency.

In order to serve the needs of our employees, this program is intended to acquaint employees with community agencies or resources most appropriate to help them with their problems. As a result, we hope to retain their services as valuable employees by restoring them to full job efficiency while, at the same time, helping them and their families to resolve the difficulties facing them.

## **B. Policy**

The program is designed to (1) identify the problem at the earliest possible stage, (2) motivate the individual to seek help, and (3) direct him/her to the best assistance available. The success of the program depends primarily upon the efforts of the Unions and the City of Lockport to carry out the joint labor/management policy as expressed by the following:

1. The purpose of this policy is to assure employees that they will receive careful consideration and an offer of assistance to help resolve such problems in an effective and confidential manner.
2. Behavioral problems which affect work performance and attendance are legitimate concerns of the administration. They may be the result of alcohol abuse, drug abuse, compulsive gambling, marital problems, poor interpersonal relations or a personal or emotional crisis in the employee's life. Early identification and referral for help frequently results in successfully treating the individuals.
3. The City of Lockport and the Unions recognize that alcoholism is a treatable disease and as with other behavioral problems mentioned above, offers guidance in securing treatment. The assistance is provided through the Employee Assistance Program.
4. Employees are assured that their job security and promotional opportunities will not be jeopardized by utilizing the Employee Assistance Program. All information and records regarding employees' or dependents' involvement with the program will be strictly **CONFIDENTIAL** in accordance with Federal Regulations (Title 42, Part 2 CFR).
5. Employees who may have personal problems which they feel may affect their job performance are encouraged to voluntarily contact the Employee Assistance Counselor at 282-1228.
6. Implementation of this policy and program does not cancel or conflict with any other agreements, contracts, rules or regulations and unsatisfactory job performance or unacceptable job behavior may result in disciplinary action.
7. Since an employee's work performance is often affected by the problems of an employee's spouse or dependents, the program is available to families of the employees as well.

## **XX. Drug and Alcohol Testing Policy – Safety Sensitive Positions**

In accordance with the various collective bargaining agreements between the City of Lockport and its unions, and in accordance with any applicable State or Federal Laws and Regulations, the City may require an employee to undergo testing for the presence of alcohol or illegal drugs upon reasonable suspicion that the employee is under the influence of such drugs and/or alcohol while on duty. In the case of alcohol testing, all testing will be done by breath testing. In the case of illegal drug testing, all testing shall be done by urinalysis. Only laboratories which are certified by the U.S. Department of Health and Human Services under National Laboratory Certification

Program (NLCP) to participate in the U.S. Department of Transportation drug testing program pursuant to 49 CFR Part 40 shall be used to administer breathe tests or perform urinalysis under this agreement.

The use of illegal or controlled substances and alcohol by an employee adversely affects the mission of the City, impairs the efficiency of the workforce, endangers the lives and security of employees, and undermines the public trust.

The City fully supports the Employees Assistance Program (hereafter EAP) and encourages employees who are using illegal substances and alcohol to seek the confidential services of the EAP at the workplace. Information regarding the use of illegal controlled substances and alcohol revealed to EAP representatives by an employee cannot be used against the employee for any purpose.

## **XXI. Reasonable Suspicion Testing**

In accordance with the various collective bargaining agreements between the City of Lockport and its unions, and in accordance with any applicable State or Federal Laws and Regulations, the City may require an employee to undergo testing for the presence of alcohol or illegal drugs upon reasonable suspicion that the employee is under the influence of such drugs and/or alcohol while on duty.

## **XXII. Non-Smoking Workplace Include vaping, e-cigarettes etc., chewing tobacco**

As per New York State Law (Public Health Law, Article 13-E), smoking is prohibited in all places of employment, which is defined as "any indoor area or portion thereof under control of an employer in which employees of the employer performs services, including company vehicles." It is unlawful for any person to smoke in such places, and it is unlawful for the City to fail to comply with the provisions associated with this law. Accordingly, it is the City's policy to act in accordance with this law and its attendant regulations. Employees found smoking in violation thereof will be subject to disciplinary action.

## **XXIII. Equal Employment Opportunity**

The City is an equal opportunity employer and complies with all applicable federal, state and local laws that prohibit discrimination. The City strictly prohibits and does not tolerate discrimination against employees, applicants, or any other covered persons because of race, color, religion, creed, national origin, gender, disability, age, veteran status, marital status, genetic information, or any other protected status under federal, state, or local law. This section applies to all terms and conditions of employment, including but not limited to hiring, promotion, compensation, discipline, and termination. City employees are strictly prohibited from engaging in any form of unlawful discrimination.

If an employee believes he or she has been subject to any form of unlawful discrimination, the

employee must report the conduct in the manner set forth in Section XXX. of this Handbook.

## **XXIV. Discrimination, Harassment and Retaliation**

*The City of Lockport* is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of *the City of Lockport's* commitment to a discrimination-free work environment. Sexual harassment is against the law<sup>1</sup> and all employees have a legal right to a workplace free from sexual harassment and employees are urged to report sexual harassment by filing a complaint internally with *the City of Lockport*. Employees can also file a complaint with a government agency or in court under federal, state or local antidiscrimination laws.

### **Policy:**

1. *The City of Lockport's* policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with *the City of Lockport*. In the remainder of this document, the term "employees" refers to this collective group.
2. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).
3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. *The City of Lockport* will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of *the City of Lockport* who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. All employees, paid or unpaid interns, or non-employees<sup>2</sup> working in the workplace who believe they have been subject to such retaliation should inform a supervisor, manager, *Personnel Director*, or *Corporation Counsel*. All employees, paid or unpaid interns or non-employees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.
4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject *the City of Lockport* to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.

---

<sup>1</sup> While this policy specifically addresses sexual harassment, harassment because of and discrimination against persons of all protected classes is prohibited. In New York State, such classes include age, race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, domestic violence victim status, gender identity and criminal history.

<sup>2</sup> A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, "gig" workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.

5. *The City of Lockport* will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. *The City of Lockport* will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.
6. All employees are encouraged to report any harassment or behaviors that violate this policy. *The City of Lockport* will provide all employees a complaint form for employees to report harassment and file complaints.
7. Managers and supervisors are **required** to report any complaint that they receive, or any harassment that they observe or become aware of, to *the Personnel Director or Corporation Counsel's Office*.
8. This policy applies to all employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy must be provided to all employees and should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to employees upon hiring.

### **What Is "Sexual Harassment"?**

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called “quid pro quo” harassment.

Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

### **Examples of sexual harassment**

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
  - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee’s body or poking another employee’s body;
  - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning the target’s job performance evaluation, a promotion or other job benefits or detriments;
  - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person’s sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people’s ideas or perceptions about how individuals of a particular sex should act or look.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
  - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual’s sex, sexual orientation, gender identity and the status of being transgender, such as:
  - Interfering with, destroying or damaging a person’s workstation, tools or equipment, or otherwise interfering with the individual’s ability to perform the job;
  - Sabotaging an individual’s work;
  - Bullying, yelling, name-calling.



### **Who can be a target of sexual harassment?**

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

### **Where can sexual harassment occur?**

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

### **Retaliation**

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in “protected activity.” Protected activity occurs when a person has:

- made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- reported that another employee has been sexually harassed; or
- encouraged a fellow employee to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

## **Reporting Sexual Harassment**

**Preventing sexual harassment is everyone's responsibility.** *The City of Lockport* cannot prevent or remedy sexual harassment unless it knows about it. Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, manager, *Personnel Director, or Corporation Counsel's Office*. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager, *Personnel Director, or Corporation Counsel's Office*.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf.

Employees, paid or unpaid interns or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

## **Supervisory Responsibilities**

All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, **are required** to report such suspected sexual harassment to the *Personnel Director or Corporation Counsel's Office*.

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

## **Complaint and Investigation of Sexual Harassment**

**All** complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. *The City of Lockport* will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations should be done in accordance with the following steps:

- Upon receipt of complaint, *the Personnel Director or Corporation Counsel's Office* will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If complaint is verbal, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, prepare a Complaint Form based on the verbal reporting.
- If documents, emails or phone records are relevant to the investigation, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses;
- Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
  - A list of all documents reviewed, along with a detailed summary of relevant documents;
  - A list of names of those interviewed, along with a detailed summary of their statements;
  - A timeline of events;
  - A summary of prior relevant incidents, reported or unreported; and
  - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Keep the written documentation and associated documents in a secure and confidential location.
- Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
- Inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.

### **Legal Protections And External Remedies**

Sexual harassment is not only prohibited by *the City of Lockport* but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at *the City of Lockport* employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections.

### **State Human Rights Law (HRL)**

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time **within one (1) year** of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, **within three (3) years** of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to *the City of Lockport* does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: [www.dhr.ny.gov](http://www.dhr.ny.gov).

Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

### **Civil Rights Act of 1964**

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing

cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a “Charge of Discrimination.” The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov).

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

### **Local Protections**

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit [www.nyc.gov/html/cchr/html/home/home.shtml](http://www.nyc.gov/html/cchr/html/home/home.shtml).

### **Contact the Local Police Department**

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

## **XXV. Reasonable Accommodation for Disability**

The City complies with the Americans with Disabilities Act, as amended by the ADA Amendments Act, New York’s Executive Law (“Human Rights Law”), and all other applicable state and local fair employment practices laws, and is committed to providing equal employment opportunities to qualified individuals with disabilities. It is the City’s policy to provide reasonable accommodations to employees and applicants with disabilities, in accordance with this policy and applicable law.

To be entitled to a reasonable accommodation, the disabled individual must possess the requisite job qualifications as well as be able to satisfactorily perform the job, with or without reasonable accommodation. In addition, the individual must have a qualifying disability and a need for an accommodation that are known, or are made known, to the City. Please note that not every disability will require the consideration of reasonable accommodations. Only those disabilities which actually impede, as a matter of fact, the individual in performing the essential functions of the job will give rise to a consideration of reasonable accommodation. Essential functions are those fundamental to the position. What is an essential function is a factual question to be determined on a case by case basis.

If you believe you require an accommodation because of your disability, you are responsible for

requesting a reasonable accommodation. All requests shall be made in writing to the Personnel/Civil Service Officer. If the employee is unsure what or whether reasonable accommodation is needed, the employee is encouraged to speak to their physician. A request for reasonable accommodation shall include a description of the issue(s) underlying your request, such as the task(s) you are unable to perform; a description of the accommodation(s) you are seeking, if known; the reason you believe you require the accommodation(s); and how the accommodation(s) will help you perform the essential functions of your job.

Upon receipt of a request for reasonable accommodation, the City will consider the request and discuss it with you as part of an interactive process. The City is not required to make the specific accommodation requested by you. The City may explore the feasibility of alternative accommodations and may ultimately grant an accommodation other than the one you specifically requested if the City determines that the alternative accommodation will allow you to perform the essential functions of your position. You are required to cooperate with and participate in any discussions requested by the City related to your request for reasonable accommodation.

Whether an accommodation is reasonable will depend on a variety of factors, including the potential efficacy or benefit of the accommodation toward removing impediments to performance, the convenience of the requested accommodation in relation to alternative accommodations, and the burden of the accommodation, such as its costs or problems it may cause to the City's operations or to other employees. Accommodations that pose an undue hardship on the City are not required. All requests for reasonable accommodation will be evaluated on an individualized and case-by-case basis, and in light of all relevant circumstances.

The City may request and is entitled to medical or other information that is necessary to verify the existence of a qualifying disability, to assess the need for an accommodation and/or to evaluate potential effective accommodations. The City may request such information from the applicable healthcare provider directly. The City will not request and is not entitled to medical information that is unrelated to the subject disability or requested accommodation(s). If an employee refuses to furnish pertinent medical information requested by the City, his or her request for reasonable accommodation may be denied. The City reserves the right to have an employee examined by a medical professional of its choosing, at the City's expense, should the employee fail to provide sufficient information upon which it can be determined that the employee suffers from a qualifying disability that requires reasonable accommodation. All medical information provided to the City in connection with a request for reasonable accommodation will be kept confidential. The City may, at its discretion, require an employee to undergo a functional capacity test to determine the extent of disability and ability to perform the essential functions of their job.

Employees requesting reasonable accommodation must make the disability and need for accommodation known to the City, and must cooperate with the City in the consideration and implementation of a reasonable accommodation. You have the right to refuse an accommodation if you are able to perform the essential functions of your position without accommodation.

Individuals will not be retaliated against for requesting a reasonable accommodation. The City expressly prohibits such retaliation. If you believe you have been subject to any retaliation, please refer to the complaint procedures set forth in Section XXX Discrimination, Harassment, and Retaliation section of this Handbook.

## **XXVI. Health and Safety in the Workplace**

The City of Lockport is committed to maintaining a safe workplace, and each department will provide a place to work that is as free of hazards as possible. Occupational accidents and illnesses can cause suffering and financial loss to employees as well as to the City. It is therefore imperative that City personnel conduct themselves in a safe manner and notify a supervisor of any unsafe conditions or unsafe behavior that they observe or learn about. Obvious or potential hazards should never be ignored.

Employees are also required to comply with all laws, rules and practices designed to maintain a safe workplace, including, for example, using City-approved tools/equipment only, using all required safety equipment, and maintaining work areas organized and free of potential hazards. Aisles, entrances/exits and stairwells should be kept clear of stumbling hazards. It is also important that employees use proper technique when lifting to avoid back injuries.

Safety rules and practices are made for your protection -- if you observe them, your chances of avoiding painful injuries greatly increase. If you are performing a task for the first time or have any questions regarding same, you should seek clarification from your supervisor before attempting to perform the task. Likewise, if you do not understand a rule, procedure or instruction you should immediately seek clarification from your supervisor.

Any alleged injury to a visitor should be reported to the City Clerk's Office immediately, however slight it may appear. Please contact the City Clerk with any questions with respect to reporting incidents or injuries.

Failure to comply with these terms may result in discipline, up to and including termination.

## **XXVII. Safety Committee**

A Safety Committee consisting of department heads and departmental representatives, the City Clerk, and insurance representatives has been established.

The purpose of this committee is to review all injuries reported occurring to City employees, inspect City operations and departments to ascertain that proper safety procedures are being utilized, and to make recommendations regarding training needs and changes in City policy or procedures to encourage workplace safety. The Committee also works with the City's insurance representatives to create and provide training sessions.

## **XXVIII. Building Evacuation**

Building evacuations may be necessary in certain circumstances in order to prevent injury or death to City employees or clients. Incidents such as fires, explosions, tornadoes, structural problems or bomb threats are examples of incidents that may require evacuation.

When any such incident is discovered, the person who discovers it should pull the nearest fire alarm and report the incident to a supervisor or Department Head. If it is a small fire and you are trained to use a fire extinguisher or other firefighting equipment, you may utilize any such equipment available to put out the fire. In all other circumstances, including if you determine you are unable to extinguish the fire for any reason, you should evacuate the building immediately using the nearest available exit. If you are aware of anyone inside the building you should immediately notify the Fire Department or other responding emergency personnel on scene. Under no circumstance should anyone be allowed to re-enter the building until the Fire Department or other official in charge of the scene permits re-entry.

During a fire or other building evacuation, it is essential that everyone exit the building in a calm and orderly fashion, and in accordance with any instructions provided by the City official or emergency responders. Failure to evacuate or otherwise comply with the intent of this section will result in discipline up to and including termination.

## **XXIX. Civil Service Law - An Overview**

Many terms and conditions of your employment with the City of Lockport are governed by the Civil Service Law and Rules, as well as other State Laws. As an employee in public service, you are in Civil Service. In general, the term "Civil Service" has come to mean jobs based on the merit and fitness of candidates, or a system of appointing government employees on the basis of competitive examination, rather than political patronage.

### **A. Classifications**

The Civil Service is divided into the unclassified and classified service. Unclassified service includes, for example, the Mayor, City Clerk, other elected officials, City Treasurer and Corporation Counsel. The classified service includes all other City employees and is divided into four groups: competitive class, non-competitive class, labor class and exempt class.

- **COMPETITIVE CLASS** - Includes all positions for which it is practical to determine merit and fitness of applicants by competitive examination.
- **NON-COMPETITIVE CLASS** – Includes positions determined impractical to fill through competitive examination and that are not in the exempt or labor class, such as motor equipment operators. Merit and fitness for these positions are determined by a review of candidates' training and experience.
- **LABOR CLASS** – Includes unskilled laborer positions for which there are generally no minimum job qualifications.
- **EXEMPT CLASS** – Includes policy-making functions and/or confidential positions, such as private secretaries to elected officials. Positions in this class do not require examinations.

Periodic job studies are made to determine whether sufficient changes in duties and responsibilities have occurred to warrant reclassification of a given position. Such studies are typically made by the City's Civil Service Department at the request of a Department Head or



individual employee(s).

## **B. Appointments**

Permanent Appointment can be made only to a position in a jurisdictional class in which there is a permanent vacancy. That is, to a position to which no other employee has a prior claim. All permanent appointments to Competitive Class positions must be made from applicable eligible lists.

Provisional Appointment can be made only to a Competitive Class position for which no eligible list exists. (See Provisional Appointments and Limitations Below). This means that a person who meets all minimum qualifications for the title may be appointed to the position until an examination is held, an eligible list is established and a canvass of eligible is completed. A provisional appointee must compete in the first exam held for the title of the position in which he/she is serving. Willful failure to compete will result in termination of provisional appointment. Service under provisional appointment does not confer or establish any prior right toward any permanent appointment. In order to receive permanent appointment, the provisional appointee must be reachable on the eligible list when it is established. When a person without permanent status under any title in the classified service accepts provisional or temporary competitive class appointment, time served under such appointment is not counted towards seniority for retention in case of layoffs nor counted toward establishing a basis for accruing fringe benefits. If an examination does not create an eligible list a provisional appointee may be reappointed provisionally to the position once, pending a second examination. Failure to establish a passing score on two successive examinations for the same title will result in termination of provisional appointment and removal from the position.

Temporary Appointments are made under different sets of circumstances, the most common being to fill a vacancy which exists because an employee having a prior claim to the position is on an approved leave of absence. The permanent incumbent has a right to return to it at a future time. Temporary Appointments may also be made where, for example, a newly created title has not yet been assigned to a jurisdictional class. In addition, temporary appointments may be made to any position which is created for a specified and limited period of time, usually less than one year.

Substitute Appointments are made only to fill a vacancy created by a Military Leave of Absence of the permanent incumbent, who may return to the position after military service is completed.

Lastly, seasonal Appointments are made to positions which are not continuous throughout the year, but which may total as much as five (5) months of cumulative seasonal service in a single year, and which is successive in each consecutive year.

## **C. Probationary Period**

The probationary period is part of the permanent appointment process. Every permanent appointment from a Civil Service eligible list (competitive class) and every appointment to a position in the non-competitive, exempt, or labor class is for a probationary term. This is the time when the conduct, quality, quantity and the value of the work performed by the appointee is

observed and evaluated. Permanent status will not be awarded, and your employment will be terminated should your job performance fail to meet the City's expectations during the probationary period. The length of the probationary term is set by the City's Civil Service Department in conjunction with the applicable Collective Bargaining Agreement.

#### **D. Civil Service Examinations**

Civil Service examinations are administered by the City's Civil Service Department at various times throughout the year. Examinations may be offered for job titles on an open competitive or promotional basis. Please note that examinations issued by Niagara County, including any eligible lists generated in connection therewith, are not controlling and do not apply to City positions.

Open competitive examinations are open to the public as well as to current City employees. Anyone who meets the announced requirements is eligible to participate. Promotional examinations are limited to City employees who have a permanent position in a specific job title.

### **XXX. Residency Requirement**

1. The City of Lockport recognizes that emergency situations arise which require employees of the City of Lockport to be near their place of employment and to assume the continuation of public services to protect the health, safety, and general welfare of the people. Through adoption of this local law, the City of Lockport makes a legislative determination that those who are residents of the City of Lockport take a greater interest in promoting the public safety and health in the future of this community than do nonresidents who reside in areas unaffected by City of Lockport services. The City of Lockport further declares that such a quality is desirable for its employees. The legislative body considers that residency by its employees within the community will assure continuation of essential public services. The City of Lockport determines that the public need is sufficient to require that employees hired or promoted after the effective date of this local law be residents of the City of Lockport.
2. Definition. Residency shall mean, for the purpose of this local law, the actual principal domicile of an individual, where he or she (1) normally sleeps (2) maintains usual personal and household effects (3) lists as an address on tax filings; and lists as his or her address for a motor vehicle registration, if any.
3. Residency for new municipal employees. Except as otherwise provided by law, the City of Lockport hereby establishes a residency requirement for all prospective employees. Every person initially employed by the City of Lockport on or after the effective date of this local law shall, as a qualification of employment, become a resident of the City of Lockport within six months of the date of initial service for the City of Lockport. During the time of service

of such an employee, no individual shall cease to be a resident of the City of Lockport.

4. Exceptions. The requirement of residency within the corporate limits of the City does not apply to temporary employees, temporary advisors and consultants, persons having an independent contractor status and current employees of the City of Lockport, who reside outside the corporate limits of the City. Also exempt from residency requirements are members of the Fire Department and Police Department, so long as the Police Department has 200 or more full-time members as set forth in further detail in Section 30(4) of the Police Officers Law.
5. Residency upon promotion. All employees promoted by the City of Lockport on or after the effective date of this local law shall be or, within six months of such promotion, shall become a resident of the City of Lockport.
6. Notice and posting. A copy of this local law shall be provided to each employee upon his or her initial appointment or promotion. However, a failure to do so shall not affect the application of this local law to any employee appointed or promoted after its effective date. A copy of this law shall be posted in all locations normally used for employee communications.
7. Investigation of residency. Should it be alleged that an employee is not in compliance with Section three or four of this local law as the case may be, the City of Lockport may initiate a hearing by providing the employee with written notice of his or her alleged violation and shall allow the employee seven calendar days in which to respond. If there is a failure to respond or if, in the judgment of the City of Lockport, the response is not sufficient to satisfy the requirements of this local law, the City of Lockport shall set a date to hear the charge of non-residence. The employee shall be sent a notice of the hearing date at least 15 calendar days prior to the hearing. A record of the hearing shall be made. Should an employee establish residency to the satisfaction of the City of Lockport prior to the hearing date, it shall result in a cancellation of the hearing authorized by this section.

To conduct the hearing, the City of Lockport may in writing designate an individual who for the purpose of the hearing shall be vested with all powers of the City of Lockport for review and decision. Should the City of Lockport determine that an employee is a nonresident in violation of this local law, the employee shall be notified in writing that he or she has been deemed to have voluntarily resigned from employment as of the date of the determination. Upon reestablishing residency, an individual having so resigned may apply for reinstatement to his or her former position and shall be reinstated if the position is vacant.

8. Waiver of requirements. In the event that the City of Lockport determines that it is in the best interest of the City of Lockport to do so, the provisions of Section three or four may be waived with respect to an incumbent or incumbents of a particular title or titles in accordance with the following standards:
  - a) Lack of applicants. The requirement of residency may be waived in those instances where the City of Lockport has difficulty hiring or promoting the most qualified person because of its residency requirements.
  - b) Necessity for non-residence. The requirement of residency may be waived in those instances where it is determined that residency is not in the best interest of the municipality.

Such a waiver shall not in any way affect the application of Section three or four of this local law with respect to any other title or titles.

The Residency Policy herein is subject to any procedures or modifications included in the respective collective bargaining agreements.

## **XXXI. Personnel Office**

The Personnel Office, also referred to as the Civil Service Department, serves two basic functions: to administer the Civil Service Law and to serve as the central personnel agency for City government. The Personnel Officer has the authority to adopt Civil Service rules governing appointments, promotions, reinstatements, leaves of absences and similar matters governing City employment and other political subdivisions under its jurisdiction.

Functions of this office include holding examinations; maintain employment history for all Civil Service employees in the City; review qualifications of all appointees to Civil Service positions; advise individual employees of their rights, benefits and responsibilities under the law and under collective bargaining agreements; provide assistance and information concerning retirement matters; handle and/or assist with claims for unemployment, disability; training and other personnel related matters.

## **XXXII. Personnel files**

The Personnel Office maintains an individual personnel file for each City employee. In it are copies of the necessary data, forms, appraisals, and records relating to his or her employment. The file is the sole property of the City and for its own use.

No material related to an employee's conduct, performance, character or personality, which is derogatory in nature, shall be placed in the personnel file without notification to the employee. The employee shall be given an opportunity to read such material and shall acknowledge that he/she has read such material by signing the material to be filed, with the understanding that such signature merely acknowledges that the employee has read such material and does not indicate agreement with the contents. The employee shall receive a copy of such material upon request. Signature is not deemed to constitute approval of the contents of any document. Signature is not mandatory. If signature is declined, a statement notifying the declination will be added to the document.

The City grants all employees the right to review their individual personnel file during their employment upon request at a mutually agreeable time. Employees do not have the right to review or receive copies of their personnel file upon termination of employment, whether voluntary or involuntary, or thereafter.

## **XL. Resignations**

All resignations shall be submitted in writing. If the resignation fails to identify an effective date, the resignation will be deemed effective upon the City's receipt of the resignation. If the resignation identifies an effective date, the City reserves the right to continue his/her employment through said date or deem the resignation effective immediately upon receipt. In either event, the employee is entitled to continue to receive his or her pay and benefits until the effective date of the resignation, unless the employee is on an unpaid leave of absence or other extenuating circumstances exist that would not warrant such pay or benefits continuing. If a resignation is submitted while an employee is on a leave of absence without pay, the resignation will be deemed effective as of the date of the commencement of said leave for purposes of determining eligibility for reinstatement.

A resignation may not be withdrawn, canceled, or amended after it is delivered to the City without the City's consent.

## **XLI. Contact Information and Personal Data Changes**

It is essential to the City's operations that it have current and up to date contact information for all of its employees. It is similarly important that the City be notified of any changes to an employee's marital status or health insurance. In this regard, it is your responsibility to immediately inform the Personnel Office of any changes to the following as soon as possible: name; address; telephone number; marital status; name, birthdate, and relationship of all dependents; and health insurance. The City is not responsible for any acts or omissions attributable to an employee's failure to notify the City of any changes to such information.

## **Reference policy**

Only dates of employment and position held are given in response to reference requests. No other information will be provided. A copy of this will be provided upon request.

## **XLIII. Workplace Violence Policy**

It is the policy of the City of Lockport to provide an employment and business environment free from violence. This policy is designed to meet the requirements of New York State Labor Law, Article 2, § 27-b, and to promote the safety and well-being of all people in our workplace.

Workplace violence is any physical assault or act of aggressive behavior occurring where a public employee performs any work-related duty in the course of his or her employment, including but not limited to:

- An attempt or threat, whether verbal or physical, to inflict physical injury upon an employee;
- Any intentional display of force which would give an employee reason to fear or expect bodily harm;
- Intentional and wrongful physical contact with a person without his or her consent that entails some injury; or
- Stalking an employee with the interest in causing fear of physical harm to the physical safety and health of such employee when such stalking has arisen through and in the course of employment.

Acts of violence against any City employees where any work-related duty is performed will be investigated and appropriate action will be taken, including involving law enforcement authorities when warranted. All employees are responsible for helping to create an environment of mutual respect for each other as well as clients and visitors, following all policies, procedures, and practices, and for assisting in maintaining a safe and secure work environment.

It shall be a violation for anyone who is authorized to recommend or take personnel actions affecting an employee, or who is otherwise authorized to transact business or perform other acts or services on behalf of the City:

- a) To make real or perceived threats or engage in acts of physical or verbal violence in the workplace.
- b) To recommend, impose, grant, withhold or refuse to take any personnel or other action consistent with his or her duties and responsibilities because of workplace violence or as a reprisal against an employee or other individual who has complained about or reported workplace violence.
- c) To disregard and fail to investigate allegations of workplace violence whether reported by the employee or individual who is the subject of the alleged violence or a witness, and to fail to take immediate corrective action in the event misconduct has occurred.

Whenever such misconduct exists, prompt and corrective action is required, in accordance with any applicable discipline procedures is required.

## **A. Complaint Procedure**

Employees or other individuals who feel aggrieved because of workplace violence have several ways to make their concerns known:

- a) Aggrieved persons who feel comfortable doing so should directly inform the person engaging in the violent behavior that such conduct or communication is inappropriate and must stop. The City recognizes, however, that it is not necessary for an individual to talk directly to the person engaging in the violent behavior if the individual feels uncomfortable doing so.
- b) All aggrieved individuals who do not wish to communicate directly with the person

whose conduct or communication is inappropriate, or if direct communication with the offending party has been unavailing or would constitute a risk of harm, should complete, and submit a Workplace Violence Incident Report form to their supervisor or Department Head. A copy of the Workplace Violence Incident Report form is attached as Appendix C. Verbal complaints will be accepted; however, employees are encouraged to submit any complaints of workplace violence using the Incident Report form. If an employee does not submit a written complaint, it is the responsibility of the employee's supervisor or Department Head to document the complaint using the Workplace Violence Incident Report form.

c) Aggrieved persons alleging failure by supervision to take immediate action on the individual's complaint may also file a formal grievance in accordance with the provisions of the appropriate grievance procedure.

Regardless of the means selected for resolving the problem, the initiation of a complaint of workplace violence will not cause any reflection on the complainant nor will it affect such person's future dealings with the City, the employee's employment, compensation, or work assignments.

False and malicious complaints, as opposed to complaints which, even if erroneous, are made in good faith, will be subject to disciplinary action.

Any complaint of workplace violence should be submitted as soon as possible following the incident(s) in question. Every effort should be made to file such complaints as soon as possible, while facts and potential testimony of witnesses, if any, are still fresh. The City's ability to effectively investigate the incident and take any appropriate corrective action depends in large part on the prompt reporting of the incident and the level of detail reported. That said, there is no specific time limit in which to submit a workplace violence complaint. However, should an employee pursue a complaint utilizing a grievance procedure, please keep in mind that those procedures have time limits that must be followed.

All supervisors and City officials have a responsibility for implementation of this policy. If behavior is observed which violates this policy, the person observing such behavior shall bring the matter to the attention of the supervisor responsible for that area. When a problem is beyond the capability of such supervisor to effectively correct the matter, it shall be referred to Personnel Office for handling.

In all cases and regardless of the individual remedial measures that have been undertaken, the supervisor or Department Head to whom the complaint has been referred shall complete a written report of each complaint and submit it to the Mayor and Personnel Office within ten (10) days of receipt of the complaint. The report should: (i) identify the date of receipt; (ii) identify the complainant; (iii) identify the all involved parties and actions complained of, including relevant background and circumstances; (iv) set forth each step of the investigation; (v) identify the results of the investigation; and (vi) indicate what, if any, corrective measures were taken or pursued and the date they were implemented.

All workplace violence complaints and reports in response thereto will be maintained by Personnel Office.

## **B. Retaliation Prohibited**

It is a violation of this policy to retaliate against any employee or other individual who has complained of workplace violence. Intimidation, coercion, threats, reprisal, or other forms of discrimination directed at an individual who has complained of workplace violence is prohibited. Any employee who is found to have committed an act of retaliation will be subject to disciplinary action. Acts of retaliation should be reported immediately and will be promptly investigated.

## **XLIV. Sexual Harassment Policy**

### **Introduction**

The City of Lockport is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of the City of Lockport's commitment to a discrimination-free work environment. Sexual harassment is against the law<sup>2</sup> and all employees have a legal right to a workplace free from sexual harassment and employees are urged to report sexual harassment by filing a complaint internally with the City of Lockport. Employees can also file a complaint with a government agency or in court under federal, state or local antidiscrimination laws.

---

<sup>2</sup> While this policy specifically addresses sexual harassment, harassment because of and discrimination against persons of all protected classes is prohibited. In New York State, such classes include age, race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, domestic violence victim status, gender identity and criminal history.

### **Policy:**

1. City of Lockport's policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with the City of Lockport. In the remainder of this document, the term "employees" refers to this collective group.
2. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).
3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. The City of Lockport will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of the City of Lockport who retaliates against anyone involved in a sexual harassment investigation will be subjected to



disciplinary action, up to and including termination. All employees, paid or unpaid interns, or non-employees<sup>3</sup> working in the workplace who believe they have been subject to such retaliation should inform a supervisor, manager, the Mayor or the City Attorney. All employees, paid or unpaid interns or non-employees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.

4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject the City of Lockport to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.
5. The City of Lockport will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. The City of Lockport will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.

---

<sup>3</sup> A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, "gig" workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.

6. All employees are encouraged to report any harassment or behaviors that violate this policy. The City of Lockport will provide all employees a complaint form for employees to report harassment and file complaints.
7. Managers and supervisors are **required** to report any complaint that they receive, or any harassment that they observe or become aware of, to the Mayor or City Attorney.
8. This policy applies to all employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy must be provided to all employees and should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to employees upon hiring.

### **What Is "Sexual Harassment"?**

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and

(where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation, or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.

Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

### **Examples of sexual harassment**

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
- Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body;
- Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
- Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments;
- Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate

simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.

- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
- Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:
- Interfering with, destroying, or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
- Sabotaging an individual's work;
- Bullying, yelling, name-calling.

### **Who can be a target of sexual harassment?**

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer, or visitor.

### **Where can sexual harassment occur?**

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

### **Retaliation**

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in "protected activity." Protected activity occurs when a person has:

- made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;

- opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- reported that another employee has been sexually harassed; or
- encouraged a fellow employee to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

## **Reporting Sexual Harassment**

**Preventing sexual harassment is everyone's responsibility.** The City of Lockport cannot prevent or remedy sexual harassment unless it knows about it. Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, manager, Mayor or City Attorney. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager, Mayor or City Attorney.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf.

Employees, paid or unpaid interns or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

## **Supervisory Responsibilities**

All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, **are required** to report such suspected sexual harassment to the Mayor or City Attorney.

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

## **Complaint and Investigation of Sexual Harassment**

**All** complaints or information about sexual harassment will be investigated, whether that

information was reported in verbal or written form. Investigations will be conducted in a timely manner and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. The City of Lockport will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations should be done in accordance with the following steps:

- Upon receipt of complaint, the City Attorney and City Clerk will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If complaint is verbal, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, prepare a Complaint Form based on the verbal reporting.
- If documents, emails, or phone records are relevant to the investigation, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses;
- Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
  - A list of all documents reviewed, along with a detailed summary of relevant documents;
  - A list of names of those interviewed, along with a detailed summary of their statements;
  - A timeline of events;
  - A summary of prior relevant incidents, reported or unreported; and
  - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Keep the written documentation and associated documents in a secure and confidential location.
- Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
- Inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.

## **Legal Protections and External Remedies**

Sexual harassment is not only prohibited by the City of Lockport but is also prohibited by state,

federal, and, where applicable, local law.

Aside from the internal process at the City of Lockport, employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections.

### **State Human Rights Law (HRL)**

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protect employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time **within one year** of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, **within three years** of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to the City of Lockport does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: [www.dhr.ny.gov](http://www.dhr.ny.gov).

Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized, and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

### **Civil Rights Act of 1964**

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from

the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov).

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

### **Local Protections**

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit [www.nyc.gov/html/cchr/html/home/home.shtml](http://www.nyc.gov/html/cchr/html/home/home.shtml).

### **Contact the Local Police Department**

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

## **Information Technology Policy**

### **Policy Statement:**

Except for any privilege or confidentiality recognized by law, individuals have no legitimate expectation of privacy during any use of the City's IT resources or in any data on those resources. Any use may be monitored, intercepted, recorded, read, copied, accessed or captured in any manner including in real time, and used or disclosed in any manner, by authorized personnel without additional prior notice to individuals. Periodic monitoring will be conducted of systems used, including but not limited to: all computer files; and all forms of electronic communication (including email, text messaging, instant messaging, telephones, computer systems and other electronic records). In addition to the notice provided in this policy, users may also be notified with a warning banner text at system entry points where users initially sign on about being monitored and may be reminded that unauthorized use of the City's IT resources is not permissible.

The City may impose restrictions, at the discretion of the Mayor or his/her designee, on the use of a particular IT resource. For example, the City may block access to certain websites or services not

serving legitimate business purposes or may restrict user ability to attach devices to the City's IT resources (e.g., personal USB drives, iPods).

Users accessing City applications and IT resources through personal devices must only do so with prior approval or authorization from the City.

The City agrees to conspicuously post this Policy on City bulletin boards for review of all employees.

### **Acceptable Use**

All uses of information and information technology resources must comply with City policies, standards, procedures, and guidelines, as well as any applicable license agreements and laws including Federal, State, local and intellectual property laws.

Consistent with the foregoing, the acceptable use of information and IT resources encompasses the following duties:

- Understanding the baseline information security controls necessary to protect the confidentiality, integrity, and availability of information;
- Protecting City information and resources from unauthorized use or disclosure;
- Protecting personal, private, sensitive, or confidential information from unauthorized use or disclosure;
- Observing authorized levels of access and utilizing only approved IT technology devices or services; and
- Immediately reporting suspected information security incidents or weaknesses to the appropriate manager and the Director of IT.

### **Unacceptable Use**

The following list is not intended to be exhaustive but is an attempt to provide a framework for activities that constitute unacceptable use. Users, however, may be exempted from one or more of these restrictions during their authorized job responsibilities, after approval from City management, in consultation with City IT staff (e.g., storage of objectionable material in the context of a disciplinary matter).

Unacceptable use includes, but is not limited to, the following:

- Unauthorized use or disclosure of personal, private, sensitive, and/or confidential information;
- Unauthorized use or disclosure of City information and resources;
- Distributing, transmitting, posting, or storing any electronic communications, material or correspondence that is threatening, obscene, harassing, pornographic, offensive, defamatory, discriminatory, inflammatory, illegal, or intentionally false or inaccurate;
- Attempting to represent the City in matters unrelated to official authorized job duties or



responsibilities;

- Connecting unapproved devices to the City network or any City IT resource;
- Connecting City IT resources to unauthorized networks;
- Connecting to any wireless network while physically connected to a City wired network;
- Installing, downloading, or running software that has not been approved following appropriate security, legal, and/or IT review in accordance with City policies;
- Connecting to commercial email systems (e.g., Gmail, Hotmail, Yahoo) without prior management approval (City must recognize the inherent risk in using commercial email services as email is often used to distribute malware);
- Using City IT resources to circulate unauthorized solicitations or advertisements for non-City purposes including religious, political, or not-for-profit entities;
- Providing unauthorized third parties, including family and friends, access to the City IT information, resources or facilities;
- Using City IT information or resources for commercial or personal purposes, in support of "for-profit" activities or in support of other outside employment or business activity (e.g., consulting for pay, business transactions);
- Propagating chain letters, fraudulent mass mailings, spam, or other types of undesirable and unwanted email content using City IT resources; and
- Tampering, disengaging, or otherwise circumventing City or third-party IT security controls.

### **Occasional and Incidental Personal Use**

Occasional, incidental and necessary personal use of IT resources is permitted, provided such use; is otherwise consistent with this policy and the requirements of Executive Order No. 7, Prohibition Against Personal Use of City Property; is limited in amount and duration; and does not impede the ability of the individual or other users to fulfill the City's responsibilities and duties, including but not limited to, extensive bandwidth, resource, or storage utilization. Exercising good judgment regarding occasional and incidental personal use is important. City may revoke or limit this privilege at any time.

### **Individual Accountability**

Individual accountability is required when accessing all IT resources and City information. Everyone is responsible for protecting against unauthorized activities performed under their user ID. This includes locking your computer screen when you walk away from your system, and protecting your credentials (e.g., passwords, tokens, or similar technology) from unauthorized disclosure. Credentials must be treated as confidential information and must not be disclosed or shared.

## **Restrictions on Off-Site Transmission and Storage of Information**

Users must not transmit restricted City, non-public, personal, private, sensitive, or confidential information to or from personal email accounts (e.g., Gmail, Hotmail, Yahoo) or use a personal email account to conduct City business unless explicitly authorized. Users must not store restricted City, non-public, personal, private, sensitive, or confidential information on a non-City issued device, or with a third-party file storage service that has not been approved for such storage by the City. Devices that contain City information must be attended at all times or physically secured and must not be checked in transportation carrier luggage systems.

## **User Responsibility for IT Equipment**

Users are routinely assigned or given access to IT equipment in connection with their official duties. This equipment belongs to the City and must be immediately returned upon request or at the time an employee is separated from City service. Users may be financially responsible for the value of equipment assigned to their care if it is not returned to the City. Should City IT equipment be lost, stolen, or destroyed, users are required to provide a written report of the circumstances surrounding the incident. Users may be subject to disciplinary action which may include repayment of the replacement value of the equipment. The City has the discretion to not issue or re-issue IT devices and equipment to users who repeatedly lose or damage City IT equipment.

## **Use of Social Media**

The use of public social media sites to promote City activities requires written pre-approval from the Mayor or his/her designee. Approval is at the discretion of the Mayor and may be granted upon demonstration of a business need, and a review and approval of service agreement terms by Corporation Counsel. Final approval by the Mayor should define the scope of the approved activity, including, but not limited to, identifying approved users.

Unless specifically authorized by the City, the use of City email addresses on public social media sites is prohibited. In instances where users access social media sites on their own time utilizing personal resources, they must remain sensitive to expectations that they will conduct themselves in a responsible, professional, and secure manner with regard to references to the City and City staff. These expectations are outlined below.

### **a. Use of Social Media within the Scope of Official Duties**

The Mayor, or designee, must review and approve the content of any posting of public information, such as blog comments, tweets, video files, or streams, to social media sites on behalf of the City. However, Mayor approval is not required for postings to public forums for technical support, if participation in such forums is within the scope of the user's official duties, has been previously approved by his or her supervisor, and does not include the posting of any sensitive information, including specifics of the City's IT infrastructure. In addition, Mayor approval is not required for postings to private City approved social media collaboration sites (e.g., Yammer). Blanket approvals may be granted, as appropriate.

Accounts used to manage the City's social media presence are privileged accounts and

must be treated as such. These accounts are for official use only and must not be used for personal use. Passwords of privileged accounts must follow City information security standards, be unique on each site, and must not be the same as passwords used to access other City IT resources. Information posted online on behalf of the City may be subject to the record retention/disposition provisions of the Arts and Cultural Affairs Law and may be subject to Freedom of Information Law (FOIL) requests.

**b. Guidelines for Personal Use of Social Media**

Staff should be sensitive to the fact that information posted on social media sites clearly reflects on the individual and may also reflect on the individual's professional life. Consequently, staff should use discretion when posting information on these sites and be conscious of the potential perceptions of and responses to the information. It is important to remember that once information is posted on a social media site, it can be captured and used in ways not originally intended. It is nearly impossible to retract, as it often lives on in copies, archives, backups, and memory cache.

Users should respect the privacy of City staff and not post any identifying information of any City staff without permission (including, but not limited to, names, addresses, photos, videos, email addresses, and phone numbers). Users may be held liable for comments posted on social media sites.

If a personal email, posting, or other electronic message could be construed to be an official communication, a disclaimer is strongly recommended. A disclaimer might be: "The views and opinions expressed are those of the author and do not necessarily reflect those of the City of Lockport."

Users should not use their personal social media accounts for City official business, unless specifically authorized by the City. Users are strongly discouraged from using the same passwords in their personal use of social media sites as those used on City devices and IT resources, to prevent unauthorized access to City resources if the password is compromised.

**Compliance**

This policy shall take effect upon publication. Compliance is expected with all enterprise policies and standards. ITS may amend its policies and standards at any time; compliance with amended policies and standards is expected.

Any violation of this policy may subject the user to disciplinary action, civil penalties, and/or criminal prosecution. The City will review alleged violations of this policy on a case-by-case basis and pursue recourse, as appropriate. Any discipline commenced by City shall be conducted in accordance with the respective rules and policies of the employee's collective bargaining unit. No content of this policy is intended to impede, infringe, diminish, or impair the rights of any Collective Bargaining Unit and its members under the Taylor Law (if applicable), or collectively negotiated agreement, or the rights and benefits which accrue to employees through collective bargaining agreements, or otherwise diminish the integrity of the existing collective bargaining relationship.

## **Public Relations**

The City of Lockport provides numerous services to its residents through its various Departments. In order for each Department to function as efficiently and effectively as possible, it is imperative that chain of command be observed and respected at all times. Department Heads are responsible for the operations of their respective Departments and are the spokespersons for their Departments. There may be times when it is necessary or appropriate to inform the public regarding a particular event, emergency or provide other information relative to a Department. In order to provide City residents with the most accurate and current information, all communications to the public on behalf of a Department shall be made by the appropriate Department Head or his/her designee. This includes responses to inquiries made by the news media. Employees contacted by the news media for information pertaining to City operations are encouraged to direct said inquiries to their respective Department Head. Nothing herein prohibits or restricts an employee from engaging in activities that are protected by law.

## **XLVII. Social Media**

This policy recognizes the personal use of social networking sites by employees and identifies prohibited activities by employees on such social media sites. This policy is not meant to address one particular form of social media; rather social media in general, as advances in technology will occur and new tools will emerge. In general, social media refers to social networking sites (e.g., Facebook, Instagram), blogs, microblogging sites (e.g., Twitter, Nixle), photo and/or video sharing sites (e.g., Flickr, YouTube, Instagram), wikis, news sites, or any other online website or platform where users can post or share information.

City personnel are free to express themselves as private citizens on social media sites to the degree that their speech does not impair working relationships of the City for which loyalty and confidentiality are important, impede the performance of duties, or impair harmony among co-workers. City personnel shall not post, transmit, or otherwise disseminate any information to which they have access as a result of their employment without the express authorization of the applicable Department Head or his/her designee. For safety and security reasons, personnel are cautioned to consider not disclosing their employment with the City of Lockport nor shall they post information pertaining to any other member of the City without their permission. In this regard, personnel are cautioned to consider avoiding the following:

- Displaying City logos, uniforms, or similar items on personal web pages without the written permission of the applicable Department Head or his/her designee.
- Posting personal photographs or providing similar means of personal recognition that may cause them to be identified as an employee of the City.

When using social media, personnel should be mindful that their speech becomes part of the worldwide electronic domain.

City personnel shall not post, transmit, or otherwise disseminate any information to their personal social media accounts while on duty regardless of if from a City computer or other personally owned device without the expressed authorization of the applicable Department Head or his/her designee. Personnel will not divulge information gained by reason of their authority; make any statements, speeches, appearances, and endorsements; or publish materials that could reasonably be considered to represent the views or positions of the City without express authorization of the applicable Department Head or his/her designee.

City personnel should be aware that they may be subject to civil litigation for:

- Publishing or posting false information that harms the reputation of another person, group, or organization (defamation).
- Publishing or posting private facts and personal information about someone without their permission that has not been previously revealed to the public, is not of legitimate public concern, and would be offensive to a reasonable person.
- Using someone else's name, likeness, or other personal attributes without that person's permission for an exploitive purpose.
- Publishing the creative work of another, trademarks, or certain confidential business information without the permission of the owner.

City personnel should be aware that privacy settings and social media sites are constantly in flux, and they should never assume that information posted on such sites is protected. Similarly, City personnel should expect that any information created, transmitted, downloaded, exchanged, or discussed in a public online forum may be accessed by the City at any time without prior notice.

### **Telephones and Other Electronic Devices**

It is important that City telephone lines be free during working hours for business-related calls. The City recognizes that there may occasionally be a need to use the City's telephones for non-business-related matters. Such calls should only be made when necessary and must be limited to an absolute minimum. Under no circumstance should the City's telephones be used to place long distance calls that are not business-related.

Most of today's hand-held electronic devices make it easy to bring music, entertainment, and personal communications to the workplace. However, due to safety, productivity and efficiency reasons, the use of personal cell phones, smart phones, iPads, iPods, MP3 players, PDAs, handheld video games, and other personal electronic devices must be limited to break and meal periods. Such devices may not be used during work time unless they are being used for

business reasons and with the authorization of your direct supervisor or Department Head.

If an emergency arises where an employee anticipates the need to use or have access to a personal cell phone during work time, the employee should notify and request permission from his/her immediate supervisor or Department Head in advance whenever practicable. Any such communications should be limited to an absolute minimum. Permission will be withdrawn if the employee is perceived to be abusing the limited privilege, or if the circumstances render the employee unable to fulfill his/her duties.

#### **A. Posting and Distribution of Handbook**

A. The Mayor must promptly cause a copy of this Code, and a copy of any amendment to this Code, to be posted publicly and conspicuously in each building under the municipality's control. The Code must be posted within 10 days following the date on which the Code takes effect. An amendment to the Code must be posted within 10 days following the date on which the amendment takes effect.

B. The Mayor must promptly cause a copy of this Code, including any amendments to the code, to be made available to every person who is or becomes an officer or employee of the City of Lockport.

C. Every municipal officer or employee who a copy of this code is made available, or an amendment to the code, must acknowledge such receipt in writing. Such acknowledgment must be filed with the City Clerk who must maintain such acknowledgment as a public record.

D. The failure to post this code, or an amendment to the code, does not affect either the applicability or enforceability of the code or the amendment. The failure of a municipal officer or employee to receive a copy of this Code of Ethics, or an amendment to the code, or to acknowledge receipt thereof in writing, does not affect either the applicability or enforceability of the code or amendment to the code.

**Acknowledgment of Receipt**

I, \_\_\_\_\_, acknowledge that on \_\_\_\_\_, I have  
been(FULL NAME) (DATE)

Informed of the City of Lockport Employee Handbook adopted on \_\_\_\_\_.  
(DATE)

and its location in my work center and Employee Portal on the city web page.

I understand that it is my responsibility to be familiar with and abide by its contents. The policies, procedures and benefits described in this Handbook are not promissory and do not set terms or conditions of employment or create an employment contract.

I also understand that the terms set forth in the Handbook work in conjunction with, and do not replace, amend or supplement any terms or conditions of employment stated in any applicable collective bargaining agreement that governs my employment with the City of Lockport. If such an agreement exists and governs my employment, I understand that I should consult the terms of that collective bargaining agreement. Wherever employment terms in this Handbook differ from the terms expressed in said agreement, I understand that the specific terms of the collective bargaining agreement will control. I understand that this version of the

Handbook supersedes all prior versions published or distributed by the City of Lockport.

---

Printed Name / Position

---

Signature

---

Date

**LIST OF CURRENT LOCKPORT POLICIES**

- A.     **AFFIRMATIVE ACTION POLICY - incorporated**
- B.     **POLICY FOR COMPUTER AND INTERNET USE - incorporated**
- C.     **EMPLOYEE ASSISTANCE PROGRAM - incorporated**
- D.     **FMLA - incorporated**
- E.     **MOTOR VEHICLE SAFETY- incorporated**
- F.     **PROMOTION POLICY - incorporated**
- G.     **SEXUAL HARASSMENT POLICY - incorporated**
- H.     **CODE OF ETHICS - incorporated**
- I.     **DRUG ALCOHOL POLICY - incorporated**
- J.     **EXTENDED MILITARY LEAVE - incorporated**
- K.     **UNREPRESENTED EMPLOYMENT POLICY – not incorporated**



**City of Lockport**

**Complaint Form/Incident Report**

Complaint/Incident Information

Type of Incident or Complaint: \_\_\_\_\_

Date of Event: \_\_\_\_\_

Time of Event: \_\_\_\_\_

Location of Event: \_\_\_\_\_

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

Phone Number: \_\_\_\_\_

Department: \_\_\_\_\_

Describe the specific event or act: (Include witness names and contact information, injuries (if applicable), medical or law enforcement personnel attending, narrative of what occurred; use additional pages as necessary)

Name(s) of Involved Person(s) (use additional pages as necessary)

Name

Address

Phone Number

**Note: Immediately notify the City Clerk by telephone of any incident. Incident Report Forms MUST be completed and submitted by fax within 48 hours of the incident. Address the call and fax to the City Clerk. The City Clerk fax is 716-439-6702. Complaints of discrimination, harassment, retaliation and workplace violence must be reported to the City Attorney's Office or the Mayor's Office and will remain as confidential as possible**